

APPENDIX

VOLUME I

In the Supreme Court of the United States

OCTOBER TERM, 1976

Nos. 76-777, 76-933, 76-934, 76-935

PEGGY J. CONNOR, ET AL., *Appellants*

v.

CLIFF FINCH, GOVERNOR OF THE STATE OF  
MISSISSIPPI, ET AL.

CLIFF FINCH, GOVERNOR OF THE STATE OF  
MISSISSIPPI, ET AL., *Appellants*

v.

PEGGY J. CONNOR, ET AL. AND UNITED STATES OF AMERICA  
UNITED STATES OF AMERICA, *Appellant*

v.

CLIFF FINCH, GOVERNOR OF THE STATE OF  
MISSISSIPPI, ET AL.

PEGGY J. CONNOR, ET AL., *Appellants*

v.

CLIFF FINCH, GOVERNOR OF THE STATE OF  
MISSISSIPPI, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF MISSISSIPPI

DOCKETED DECEMBER 8, 1976, AND JANUARY 5, 1977  
PROBABLE JURISDICTION NOTED DECEMBER 8, 1976  
AND JANUARY 17, 1977.

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**DOCKET ENTRIES**

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF MISSISSIPPI**

- 10-19-65 Complaint, original and eight copies, filed.
- 10-19-65 Summons, original and five copies, copies having attached thereto copy of complaint, issued and handed U. S. Marshal.
- 10-19-65 Copy of complaint mailed to Judge Harold Cox.
- 10-27-65 Designation of Hon. James P. Coleman, United States Circuit Judge, Hon. Dan Monroe Russell, Jr., United States District Judge for the Southern District of Mississippi and Hon. William Harold Cox, United States District Judge for the Southern District of Mississippi signed by Judge Elbert P. Tuttle, Chief Judge of the United States Court of Appeals for the Fifth Circuit, to hear and determine the action, filed and entered OB, 1965, Page 1040.
- 11-6-65 Motion of Defendants for additional time within Motion for More Definite Statement, with certification.
- 11-6-65 ORDER: for good cause shown on Motion, defendants are granted 45 additional days within which to make defense to this cause in any manner permitted by the Federal Rules of Civil Procedure, filed and entered OB, 1965, Page 1052.
- 12-3-65 Motion of Plaintiff for a hearing on their application for preliminary injunction as soon as possible and in any event prior to January 4, 1966, the date the Mississippi legislature will convene in regular session, with certificate of service, filed.
- 12-17-65 Defendants' Motion to Drop Party, with certificate of service filed.
- 12-17-65 Defendants' Motion to Strike and Alternative Motion for More Definite Statement, with certificate of service, filed.
- 12-17-65 Defendants' Motion to Dismiss and Alternative Plea in Abatement, with certificate of service, filed.
- 12-29-65 Notice of call for setting three-judge cases on



- January 7, 1966 at 2:00 P.M., at Jackson, Miss., mailed to attorneys of record.
- 4-18-66 Motion of L. H. Rosenthal, attorney of record, to withdraw as counsel for plaintiffs, with certificate of service and notice, filed.
- 5-17-66 Order granting L. H. Rosenthal leave to withdraw as counsel on the motion filed 4-18-66, filed and entered O.B. 1966, Page 349. (Copies mailed to attorneys, also copies mailed to 3 Judges).
- 6-22-66 Notice of trial at Jackson, Miss. at 9:00 A. M. on July 15, 1966, together with calendar, mailed by registered mail, return receipt requested.
- 7-1-66 Defendants' Motion for Summary Judgment with Exhibits "A" and "B", certificate of service and notice of hearing on July 15, 1966, at 9:00 A.M., Jackson, Miss., or as soon thereafter as possible, filed.
- 7-7-66 Notice of Appearance of R. Jess Brown as attorney of record for plaintiff, with certificate of service, filed.
- 7-12-66 Defendants' ANSWER, with Certificate of Service, filed.
- 7-13-66 Plaintiffs' Amendment to Complaint, with Certificate of Service, filed.
- 7-12-66 Defendants' Motion to continue this case heretofore set for trial on July 15, 1966, and reset for trial at a later date with notice of hearing on July 15, 1966, at 9:00 A.M., in the U.S. District Courtroom at Jackson, Miss., with attachments and Certificate of Service, filed.
- 7-12-66 Defendants' motion for the Court to determine by Order, as provided by Rule 23, Fed. Rules Civ. Proc., as amended February 28, 1966, effective July 1, 1966, whether the entire action is to be maintained as a class action and if so, whether notice should be given to members of the class, with notice of hearing on July 15, 1966, at 9:00 A.M., in the U.S. District Courtroom, Jackson, Miss., with Certificate of Service, filed.
- 7-15-66 Defendants' Answer to New Allegations with certificate of service, filed. (Copies handed three judges in courtroom).
- 7-15-66 Sworn affidavit of Thompson McClellan, filed. (Copies handed three judges in courtroom).

- 7-15-66 EXHIBITS: Received and filed Plaintiff's 1 thru 13. (Copies made for three judges) (THE EXHIBITS ARE ON A SHELF IN THE EXHIBIT ROOM).
- 7-22-66 FINDINGS OF FACT AND CONCLUSIONS OF LAW: "In the event the Legislature does not enact an acceptable plan on or before December 1, 1966, this Court will proceed with its own plan by which the new legislators and senators are to be elected. That which has herein appeared shall constitute the findings of fact and conclusions of law in this case, and an order accordingly will be prepared and entered by the Court. Any motion, plea, or pleading not herein disposed of may be considered as left pending the final Judgment in the cause, and, as already stated, we do not here deal with the matter of Congressional Redistricting.", filed.
- 7-22-66 ORDER Directing Reapportionment of the Senate and the House of Representatives of the Legislature of the State of Mississippi, filed and entered OB 1966, Pages 473, 474 and 475.
- 7-25-66 Motion for certain documentary material offered into evidence, requested by the Court at the conclusion of the hearing on the merits on July 15, 1966; be admitted into evidence as exhibits subject to such objections as may appear of record in said depositions, and subject to the ruling of the Court, with certificate of service, filed in triplicate.
- 8-4-66 Motion by defendants for admission into evidence of certain documents with Notice of Motion and certificate of service, filed.
- 8-4-66 Defendant's Motion objecting to the admission into evidence of certain documents offered by motion of plaintiffs filed on July 25, 1966, with notice of Motion and Certificate of service—filed.
- 8-15-66 Deposition of Charles M. Hills (Original and three copies) taken July 22, 1966 at Jackson, Miss.—filed.
- 8-15-66 Deposition of James S. Saggus (Original and three copies) taken July 22, 1966 at Jackson, Miss.—filed.
- 8-15-66 Deposition of J. Harold Flannery (Original and



- three copies) taken July 22, 1966 at Jackson, Miss. with exhibits—filed.
- 8-15-66 Court Reporter's transcript of Stipulation (original and three copies) taken July 22, 1966 at Jackson, Miss., with one set of exhibits—filed.
- 8-15-66 Stipulation of Parties with Exhibits 1 and 2 (original and three copies)—filed.
- 9-30-66 PER CURIAM OPINION: "That which has herein appeared shall constitute the findings of fact and conclusions of law in this case, and an order accordingly will be prepared and entered by the Court.", with attachment, filed. (Anne Crews advised that copies of Opinion mailed to attorneys by Judge Coleman's secretary).
- 9-30-66 FIRST FINAL JUDGMENT: Order approving and adjudging House Bill No. 911, Mississippi Laws 1966 to be valid and proper and dismissing claim of the Plaintiffs attacking validity thereof with prejudice at plaintiff's cost; This court reserves and retains full jurisdiction of the claim involving reapportionment of the Legislature of Mississippi pending special session of the Legislature, filed and entered OB 1966, Pages 693 and 694. (Copies mailed attorneys) (Anne Crews advised that she mailed copies to judges on 9-26-66).
- 10-28-66 Plaintiffs' Notice of Appeal to the United States Supreme Court from Judgmt entered 9-30-66, with certificate of Service, filed.
- 10-31-66 Copies of Notice of Appeal mailed three judges.
- 10-28-66 Cash bond on appeal in the amount of \$250.00, filed.
- 12-2-66 ORDER FOR BRIEFING TOWARD DISPOSITION OF CASE: ordered that plaintiffs file their brief on their contentions as to the validity of such newly enacted state legislation and to deliver copies of such brief to the members of this Court and to the opposition on or before noon on 12-17-66; defendants are ordered to file their brief and to deliver copies of such brief to the members of this Court and to the opposition on or before noon 12-27-66; the plaintiffs may respond to such brief in like manner on or before

- noon on 12-31-66; the Clerk of this Court shall notify counsel for both sides today of this order and send them a copy thereof, filed and entered OB, 1966, Page 905.
- 12-2-66 At the direction of Miss Anne Crews, Mr. Alvin Bronstein and Mr. Martin McLendon and were read the Order filed 12-2-66; Judge Russell was handed a copy and Judge Coleman was mailed a copy. After Mr. Bronstein and Mr. McLendon were called they both requested that they come by and pick up the Order rather than have it mailed—which they did.
- 12-16-66 Brief of Plaintiffs, filed.
- 12-16-66 Plaintiffs' Motion to Amend Complaint, filed.
- 12-17-66 Order allowing amendment to complaint as set out in plaintiff's amendment to complaint, filed and entered OB 1966, Page 941.
- 12-17-66 Plaintiffs' Amendment to Complaint, with Certificate of Service, filed.
- 12-17-66 Certificate of Service by plaintiffs' attorney, showing service of a copy of the Brief of Plaintiffs on defendants' attorney, filed.
- 12-23-66 Plaintiffs' Motion for extension of time to complete the docketing of the appeal with the Supreme Court of the U. S. up to and including January 23, 1967, and certificate of service, filed.
- 12-27-66 ORDER: that the time for the docketing of the above-captioned case with the Supreme Court of the United States, the filing of the jurisdictional statement and all matters ancillary thereto be and it hereby is extended up to and including January 23, 1967, filed and entered OB 1966, page 952.
- 1-4-67 Copy of Reply Brief of Plaintiffs, signed by R. Jess Brown and Alvin J. Bronstein—filed, pursuant to order of Court.
- 1-9-67 Defendants' Answer to New Allegations, with certificate of service, filed.
- 1-10-67 EXHIBITS: D-1 through D-3, filed.
- 1-10-67 ORDER: The defendants are afforded an opportunity and are invited within five days after this date to articulate the reasons for the variations and disparities appearing on the face of the legislative enactment in suit. A copy of this order

shall be served by the United States Marshal on the Attorney General of Mississippi as due notice hereof today, filed and entered OB 1967, Pages 17 and 18.

- 1-13-67 Argument by Plaintiff's Counsel with Court Reporter's certificate, filed.
- 1-16-67 Response to show cause order, with certificate of service filed.
- 1-18-67 Copies of Senate Bill 1501 through 1505, addressed to Gov. Paul B. Johnson on 11-10-66 to Extraordinary Session of Mississippi Legislature; Amendments to Senate Bills 1501 through 1505; Senate Concurrent Resolution No. 101-107 with attachments; with certificate of Havis Sartor, Secretary of the Senate, filed.
- 1-19-67 Copies of House Bill Nos. 3, 4, 5, 31, 33 and 34 with certificate of Roman Kelly, Clerk of the Miss. House of Representatives, filed.
- 3-2-67 OPINION (Judges Coleman, Russell and Cox) establishing Districts for the election of 52 Senators and 122 Representatives in the Mississippi Legislature; parties to suit may, within 10 days file one complete proposed plan for the reapportionment of both Houses of the Legislature for the entire State, such plan to be accompanied by short memoranda or briefs, at opinion of parties, after which the plan will be thoroughly considered by the Court; the Court will then enter its interlocutory order implementing this opinion and changes, if any; this opinion to constitute the Court's finding of fact and concludes as a matter of law that reapportionment herein devised complies with one man one vote rule; the Court retains jurisdiction that it may act upon any plan of Reapportionment hereafter enacted by Leg. of State of Miss.; the order of the Court shall provide for a copy of this opinion and order implementing same duly certified to be served upon the Governor, Attorney General and Secretary of State by the U. S. Marshal, and all Legislators shall be elected and hold office as herein provided until further order of this Court—filed. (Extra copies in drawer in Xerox room).

- 3-10-67 Plaintiffs' Proposed reapportionment plan and supporting memorandum with certificate of service, filed.
- 3-13-67 Court reporter's transcript of proceedings taken 7-15-66 before Judges Coleman, Cox and Russell, filed.
- 3-27-67 INTERLOCUTORY DECREE: Court finds plan submitted by plaintiff suggesting changes and realignment of Counties in Districts 8, 14, 39 and 40 to be "without merit"; sets forth number of senators and legislators and directs Clerk to mail copies of decree to the Governor, Attorney General and Secretary of State of the state of Mississippi, filed and entered OB 1967, Pages 250-254.
- 3-29-67 OPINION of Supreme Court of the United States PER CURIAM, The Motion to affirm is granted and the judgment is affirmed. MR. JUSTICE DOUGLAS is of the opinion that probable jurisdiction should be noted and the case set down for argument, filed.
- 3-25-67 Certified copy of JUDGMENT of the Supreme Court of the United States granting the motion to affirm and affirming the Judgment of the District Court, filed and entered OB 1967, Page 299. Copy mailed three judges.
- 3-10-67 Final J. S. 6 card (at direction of Judge Cox)
- 3-23-71 Notice of Motion of Defendants for approval of apportionment plan of Miss. Legislature at a time and place convenient to the Court with attached motion certificate of service, with Exhibits 1 through 5 attached, filed. (JS 5 Re-op. at direction of Judge Cox)
- 3-24-71 Copy of above Notice of Motion and Motion with attached exhibits forwarded to Judges Coleman and Russell, Judge Cox directed his placed in file.
- 3-24-71 ORDER: Directing plaintiffs and defendants to file parallel briefs within fifteen days, addressed to the validity or invalidity of House Bill 515 of the laws of Mississippi of 1971 approved by the Governor on March 23, 1971, setting out certain points for parties to brief on. ORDERED by



- direction of the panel, signed by Judge Cox, filed and entered O.B. 1971, Pages 326 & 327.
- 3-31-71 Notice of Appearance of Constance Iona Slaughter as one of the attorneys of record, for plaintiff with cert. of service, filed.
- 3-31-71 Motion of R. Jess Brown, Attorney for leave to associate George Peach Taylor as Co-Counsel for plaintiffs, with cert. of service and Cert. of Good Standing from Northern Dist. of Alabama, filed.
- 4-8-71 Plaintiff's objections to House Bill 515, with cert. of service, filed.
- 5-12-71 Notice of Appearance of John L. Maxey, II, Geraldine H. Carnes, and Danny E. Cupit as additional counsel for plaintiffs, with certificate of service, filed.
- 5-13-71 Plaintiff's Additional Objection to House Bill 515, with certificate of service, filed. (Copy handed Judge Cox and Judge Russell)
- 2-14-68 Form letter addressed to Hon. Martin McLendon, Asst. Attorney General, State of Mississippi, notifying that within 45 days EXHIBITS would be destroyed if not picked up.
- 4-3-68 EXHIBITS destroyed.
- 5-17-71 Plaintiff's Motion for Affirmative Relief, with cert. of service, filed.
- 5-17-71 Plaintiff's Exhibits 1 thru 22, filed. (Exhibit 12 A, B & C are large maps placed in vault.) (Copy delivered to Judge Coleman by Plaintiff. Copy handed Judge Cox by Ann Crews. Copy handed Mrs. Randolph for Judge Russell)
- 5-18-71 Objections of Attorney General of Mississippi to Proposed Reapportionment Plans filed by the plaintiff, with cert. of service, filed. (Copy handed Judge Russell. Copy handed Mrs. Richmond for Judge Cox. Copy handed law clerk for Judge Coleman.)
- 5-18-71 OPINION and JUDGMENT: (Judges Coleman, Cox and Russell) All elections to be held district wide; districts electing more than one member all candidates shall qualify and be elected by posts; there shall be 33 Senatorial Districts for election of state legislators; (here opinion sets out each district described as to county, number

of Senators, Total Population of District and Percentage of Population above or below norm per seat); the Court adheres to County lines (rather than beat lines) as the best, fairest & most effective method of delineating districts for the election of legislators in the State of Mississippi; Hinds County is entitled to 12 representative; Harrison to 7 and Jackson to 5 (without George); a County which elects 3 representatives or less presents no problem because candidates are required to run by posts, however when a County, within its own borders, elects four or more representatives it would be ideal if it could be divided into districts for the election of one member to the district. Under the reapportionment plan herein adopted by this Court, the counties of Hinds, Harrison & Jackson elect 4 or more senators or representatives; the time left available makes it impossible to obtain dependable data, population figures, boundary locations so as fairly and correctly to divide these counties into districts for election of single members of the Senate or the House in the time for the elections of 1971 however the legislature to be chosen in 1975 and 1979 will be based on the Census of 1970; This Court states that as of January 1, 1972 it expects to appoint a Special Master to take testimony and make findings as to whether the Counties of Hinds, Harrison and Jackson may feasibly be divided into district of substantially equal numbers in population for the elections of 1975 and 1979 and to file his recommendations with this Court for appropriate adjudication. As to this, jurisdiction is retained. The reapportionment plan herein set out *as to all other Counties is final* and subject to no further review by this Court. As provided by Rule 52 this opinion shall constitute the findings of fact and conclusions of law in this case. This opinion shall also constitute and is hereby expressly declared to be the formal JUDGMENT of this Court and shall be docketed as such; the respective parties shall bear their own costs; a copy of



this opinion, duly certified shall be served upon each member of the Election Commission of the State of Mississippi and upon the Clerk of the Mississippi House of Representatives and the Secretary of the Miss. State Senate and due return made of such service. The Clerk of the House and the Secretary of the Senate are respectfully requested to have this opinion printed as soon as possible for the use of the membership of the respective branches of the legislature. This being the action of a Court of the United States sitting in equity and not State Action and this being for the purpose of complying with the one man-one vote requirements of the United States Constitution involving no racial discrimination to the exercise of the franchise under the Fifteen Amendment, we are of the opinion that it is not necessary that this reapportionment plan be submitted to the Attorney General of the United States or the Courts of the District of Columbia under the Voting Rights Act of 1965 as extended, 42 USC 1971, 1973 et seq. This judgment shall be in full force and effect from and after this date. Filed and entered OB 1971 Pages 759-784.

- 5-21-71 Motion of Plaintiffs to alter or amend judgment of 5-18-71 or in alternative Motion for immediate appointment of Special Master with instructions, and for other relief with certificate of service, filed.
- 5-22-71 Order Amending and Supplementing Judgment dated May 18, 1971, filed and entered OB 1971, P. 796-799. Certified copy served by U.S. Marshal on 5-22-71 on Heber Ladner and George Peach Taylor, and on 5-24-71 on John Bell Williams and A. F. Summer.
- 5-22-71 Order overruling motion of Plaintiffs for appointment of special master to create single member district in Hinds County, Filed and entered OB 1971, P. 800-801. Certified copy served by U.S. Marshal 5-22-71 on Heber Ladner and George Peach Taylor and on 5-24-71 on John Bell Williams and A. F. Summer.

- 5-24-71 NOTICE OF APPEAL of Plaintiffs and The Mississippi Freedom Democratic Party to U. S. Supreme Court with certificate of service, filed.
- 5-24-71 Bond for costs on appeal in amount of \$250.00 filed and paid into registry of Court.
- 5-24-71 Motion of Plaintiffs for stay of judgment and injunction pending appeal with certificate of service, filed.
- 5-24-71 Certified copy of Notice of Appeal mailed John F. Davis, Clerk, U.S. Supreme Court.
- 5-25-71 Order denying motion of Plaintiff to stay judgment and on alternative motion for a restraining order pending appeal, Filed and entered OB 1971, P. 806. (Copy mailed attorneys, handed Judge Cox (by sue) and mailed Judges Russell and Coleman)
- 5-28-71 Court reporter's transcript of hearing on 5/14/71 in Jackson before Judges Coleman, Cox and Russell, with certificate, filed.
- 6-3-71 Request to Clerk of Plaintiffs to certify and transmit partial record on appeal with certificate of service, filed.
- 6-4-71 Certified copy of Per curiam ORDER OF SUPREME COURT OF THE UNITED STATES: the judgment below is stayed until 6/14/71. The District Court is instructed to devise and put into effect a single-member district plan for Hinds County by 6/14/71 and extend the 6/4/71 filing date for legislative candidates from Hinds County to appropriate date so those candidates and the State of Miss. may act in light of new districts into which Hinds County will be divided. Chief Justice, Justice Black and Justice Harlan dissent and reserve the right to file an opinion to that effect, filed and entered OB 1971, pages 868 thru 872.
- 6-5-71 EXHIBITS: P-1 through P-3, filed.
- 6-7-71 Dissenting Opinion of Supreme Court Mr. Justice Black, with whom The Chief Justice and Mr. Justice Harlan join, file. (Copy handed Sue for Judge Cox, Madge for Judge Russell and mailed Judge Coleman). Filed and entered OB 1971, Pages 872-A thru 872-C.

- 6-7-71 Court Reporter's Transcript of proceedings had on 6-5-71 at Jackson, Mississippi before Judges Coleman, Cox and Russell, filed.
- 6-8-71 ORDER appointing William D. Neal as Special Master in this case to propose a valid plan, if such be possible, for division of Hinds County as directed by the Supreme Court, to be done and filed not later than 6-14-71, and sooner if possible; said Special Master shall file with this Court a written report of his findings, conclusions and recommendations; Special Master shall be allowed expenses and just and reasonable compensation for his services and other necessary costs as allowed and approved by this Court, to be taxed according to law. Filed and entered OB 1971, P. 884-887. (Copy handed A. F. Summer, Atty. General and 2 copies handed Houston J. Patton for George Peach Taylor and John Maxey)
- 6-8-71 Oath of Special Master executed, filed.
- 6-14-71 Report of Special Master William D. Neal with Exhibits A and B attached, filed. (Copy handed John Maxey, George P. Taylor and James A. Haddad (Atty. Gen's. Office) Copy mailed Judge Coleman, handed Judges Cox and Russell)
- 6-14-71 Notice to Attorneys for Plaintiffs and Defendants to file any exceptions, if any, to above report by noon June 15, 1971. Filed and entered OB 1971, P. 898. (Copies handed Maxey, Taylor and James Haddad for Attorney General)
- 6-15-71 Motion of Defendants to modify Opinion, Findings of Fact, Conclusions of Law and Judgment of May 18, 1971, as Amended May 21, 1971 with certificate of service, filed. (Copy handed Judge Russell, Judge Cox and Mailed Judge Coleman)
- 6-15-71 Response of Defendants to Report of Special Master, filed. (Copy handed Judges Russell & Cox, mailed Judge Coleman)
- 6-15-71 Motion of Plaintiffs to refer certain matters to Special Master with certificate of service, filed. (Copy handed Judges Russell and Cox, mailed Judge Coleman)
- 6-15-71 Objections of Plaintiffs to report of Special

- Master with certificate of service, filed. (Copy handed Judges Russell and Cox, mailed Judge Coleman)
- 6-15-71 Motion of Plaintiffs for hearing of objections to Report of Special Master with certificate of service. (Copy handed Judges Russell and Cox, mailed Judge Coleman)
- 6-15-71 Amendment of Plaintiffs to objections to report of Special Master with certificate of service with Appendix A, B and C attached, filed. (Copy handed Judges Russell, and Cox, mailed Judge Coleman)
- 6-16-71 OPINION of Court on Remand from Supreme Court Staying Order dated 6-3-71 with Exhibits A and B (Exhibit B having exhibits A and B also) attached, filed.
- 6-16-71 ORDER: Motion of defendants to modify former opinion and finding of facts and conclusions of law denied; Motion of Plaintiffs to re-refer case to Special Master denied; Candidates for office of Senator and Representative in the Mississippi Legislature for Hinds County for 1971 elections shall run and be elected from county at large and candidates shall have until noon, Saturday June 19, 1971, to qualify for said election; This Order is interlocutory in character and Special Master (William D. Neal) will not be discharged but remain available to the Court for further services herein if necessary; Twenty-Five copies of this Order with supporting and underlying attachments shall be transmitted by the Clerk of this Court by air mail to the Clerk of Supreme Court of U.S. as the report of this court on its findings and elusions [sic] on the record made by Plaintiffs in this case. Filed and entered OB 1971, P. 1014-1017. (Copies handed Maxey for George Taylor, mailed A. F. Summer)
- 6-16-71 Twenty-Five certified copies of Opinion with Attachments and (Twenty-five certified copies of Order forwarded by air mail to E. Robert Seaver, Clerk, U.S. Supreme Court, Washington, D.C.
- 1-26-72 Per Curiam Order from the Supreme Court. ". . . , the judgment of the District Court is va-



cated, except insofar as it applied to the 1971 elections, and the case is remanded to the District Court for further proceedings consistent with this opinion.", filed.

- 2-28-72 ORDER: Certified copy of Order from Supreme Court: The judgment of the District Court is . . . "vacated with costs, except insofar as it applied to the 1971 elections; and that this cause be, and the same is hereby, remanded to the United States District Court for the Southern District of Mississippi for further proceedings consistent with the opinion of this Court.", filed and entered OB 1972, Page 277.
- 4-12-72 Bill of Costs in the sum of \$100.00, with copy of letter from Supreme Court Clerk dated 2-23-72 attached, filed.
- 4-24-72 Costs in the sum of \$100.00 taxed.
- 10-4-72 Certified copy of ORDER: Clerk of Court issue check in amount of \$2,750.00 payable to Lawyers' Committee for Civil Rights Under Law, representing cash refund of cash bond on appeal in each of eleven cases listed, filed and entered OB 1972, page 1196. (DMR)
- 10-17-72 Certified copy of ORDER: Clerk of Court issue check in amount of \$750.00 payable to Lawyers' Committee for Civil Rights Under Law, representing cash refund of cash bond on appeal in each of above cases (3641, 3830 & 4808), filed and entered OB 1972, Page 1196 (DMR)
- 1-3-73 Pltf's. motion for appointment of special master with instructions, and reference to establish single member districts for Hinds, Harrison & Jackson counties, with cert. of service and notice of motion on 1/12/73 in Jackson before Judge Cox in Jackson, filed.
- 1-4-73 ORDER FOR DEFERMENT: Pltfs. directed to immediately contact proper officials of Mississippi Legislature and make known their contentions and make available all date to enable Legislature to dispose of questions relating to Hinds, Harrison and Jackson Counties within time indicated. Action of the Court on appointment of a Master will be disposed of by proper order at a

- later time., Ordered for the Entire Court, filed and entered OB 1973, pages 4 & 5. (WHC) (Copies mailed Mr. Summer, Mr. Taylor and Judges Coleman & Russell. Anne Crews handed copy for Judge Cox)
- 1-22-73 Motion of George Peach Taylor for leave to Withdraw as Counsel for Plaintiffs, with cert. of service, filed.
- 1-26-73 Motion of pltfs. for leave to associate Frank R. Parker as Co-Counsel with exhibits attached, with cert. of service, filed.
- 2-9-73 Defendants Submission pursuant to Order for Deferment and Motion for Approval of Apportionment of the Mississippi Legislature with Notice of Hearing at a time and place convenient to the Court, certificate of service and attachment, filed.
- 3-13-73 ORDER FOR PLAINTIFFS TO SHOW CAUSE: Pltfs. are cited to show cause on 4/20/73 at 9:00 AM in Courtroom No. 2 in Jackson, Miss. why legislative enactments as passed and adopted should not be approved under the rule of Supreme Court as being in compliance with the "one person, one vote" rule. An attested copy of this order delivered by U. S. Marshal at office of one of the attys. for pltf. shall constitute service, filed and entered OB 1973, pages 414 & 415. (WHC) (Certified copy handed U. S. Marshal to be delivered to John L. Maxey and Judge Russell) (Copies mailed Judge Coleman, and William Allain, Asst. Atty. Gen.) (Per Anne Crews)
- 3-13-73 Marshal's return on Order to Show Cause executed as to Judge Russell and John Maxey on 3/13/73, filed.
- 3-14-73 Plaintiffs' objections to House Bill 446 and Senate Bill 1701, with cert. of service, filed. (Copy handed J. Nall for Judge Cox, handed M. Randolph for Judge Russell and mailed to Judge Coleman)
- 4-5-73 Notice of plaintiffs to take deposition of Rep. Stone D. Barefield on 4-10-73 in Hattiesburg,



- Miss. beg. at 10:00 a.m., with cert. of service, filed.
- 4-5-73 Deft. William L. Waller's Motion for Protective Order against taking of deposition of Rep. Stone Barefield and staying all further discovery and Notice for hearing before Judge Cox on 4-5-73, with cert. of service, filed.
- 4-5-73 ORDER: George Peach Taylor permitted to withdraw as counsel for plaintiffs and John L. Maxey, II and Frank R. Parker remain as and be substituted as counsel in his place, filed and entered OB 1973, Page 510 (copy mailed attorneys—copy handed atty. Frank Parker)
- 4-5-73 ORDER: deft. Gov. Waller's Motion for Protective Order on Discovery denied except that pltf's. in their discovery shall be limited to 5 depositions of members of the Miss. Legislature and are prohibited from taking depositions of newspaper reporters or of members of the staff of the Miss. Legislature or staff persons employed for purposes of working on the state reapportionment plan but if pltf's. can show good cause for necessity of additional depositions of legislators they may apply to Court by motion for such further discovery, filed and entered OB 1973, Page 511 (copy handed atty. Parker, mailed other attorneys)
- 4-9-73 Defendant's submission concerning present issues before the Three Judge Court, with cert. of service and letter from Heber Ladner, Jr. stating a copy to be mailed to individual judges, filed.
- 4-10-73 Pltf's. notice of deposition upon oral examination of Rep. Horace Lester and Sen. Con Maloney on 4/13/73 in Jackson, with cert. of service, filed.
- 4-12-73 Amended submission pursuant to order for deferment and motion for approval of apportionment of the Mississippi legislature with Exhibit I & II and cert. of service, and notice of motion at time and place convenient to the Court, filed.
- 4-12-73 Letter from A. F. Summer stating copies of above motion mailed individual judges, filed.
- 4-13-73 Attorney Frank Parker's return on deposition

- subpoena executed as to Rep. Horace B. Lester on 4-12-73, filed.
- 4-17-73 Pltf's. motion for continuance, with cert. of service, filed. (Copies placed in Judges' files.)
- 4-17-73 Pltf's. motion for substitution of successor public officials as defendants, with cert. of service, filed. (Copies placed in Judges' files.)
- 4-17-73 Pltf's. notice of above two motions on 4/20/73 at 9:00 AM in Jackson, filed.
- 4-18-73 Deposition of Horace B. Lester taken by pltf. on 4/13/73, filed.
- 4-18-73 Deposition of James C. Maloney taken by pltf. on 4/13/73, filed.
- 4-19-73 Plaintiffs' Objections to House Bill 1389 and Senate Bill 2452, and Prayer for Injunctive Relief with Exhibits A, B and C attached, with cert. of service, filed.
- 4-19-73 Deposition of Stone D. Barefield, Vols. I & II, taken on 4-10-73 in Hattiesburg, Miss., with Exhibits 1 through 7 attached in separate brown manila envelope, filed.
- 4-19-73 Deposition of William Winter taken in Jackson, Miss. on 4-17-73, with Exhibits 1 through 5 attached, filed.
- 8-27-73 Deposition of Harold E. Sweeney, Jr. taken by pltf. on 4/20/73, filed.
- 8-27-73 Deposition of Harold E. Sweeney, Jr., Volume II taken by pltf. on 4/20/73, filed.
- 8-27-73 Exhibits 1 through 12 to deposition of Harold E. Sweeney taken by pltf. on 4/20/73, filed. (EXHIBITS 1 & 2 in BROWN ENVELOPE IN VAULT. EXHIBITS 3 through 12 ARE LARGE MAPS AND PLACED IN VAULT)
- 3-19-74 Large roll of exhibits (maps & Charts) received from Supreme Court and placed in vault.
- 4-26-74 Plaintiff's motion for leave to file supplemental complaint, with copy of Supplemental complaint and attachments, Cert. of service and notice of motion on 5/3/74 before Judge Cox in Jackson, filed. (Copy for Judge Cox put in Glenda Bond's box to be handed to Judge Cox) (Other copies placed in files per Bobbie Price)
- 5-10-74 ORDER denying plaintiffs' motion for leave to

- file supplemental complaint, filed and entered OB 1974, page 753. (Copies mailed all attys. of record) (Copies placed in Judge's files and not mailed per B. Price)
- 5-20-74 Motion for Review and Reconsideration by Three-Judge Panel of Plaintiffs' motion for leave to file supplemental complaint, with attachment and cert. of service, and notice of motion before Judges Coleman, Russell and Cox on 5/31/74 in Jackson at 9:00 AM, filed. (Copy handed Glenda Bond for Judge Cox and mailed Judges Coleman and Russell)
- 10-1-74 Notice of plaintiff of taking of deposition upon written questions, with Questions to be Propounded, cert. of service and Exhibits A thru I, filed.
- 10-11-74 Plaintiffs' request for admission of facts and genuineness of documents, with cert. of service and Exhibits 1 thru 27, filed. (EXHIBITS 1 THRU 27 placed in separate folder in file and marked)
- 10-15-74 Pltf's notice of depositions upon oral examination of Dr. James W. Loewen on 10-17-74 and Dr. Gordon G. Henderson on 10-18-74, with cert. of service, filed.
- 10-28-74 Notice of plaintiffs to take depositions of Rep. Robert Clark and Dr. Gordon G. Henderson on 11-1-74, with cert. of service, filed.
- 11-7-74 Defendants' response to pltf's. request for admission of facts and genuineness of documents, with cert. of service, filed.
- 11-15-74 Plaintiff's motion to compel answers to plaintiffs' request for admission of facts and genuineness of documents, with Exhibit A & B, and notice of motion on 12/2/74 in Gulfport before Judge Russell at 9:00 AM, with cert. of service, filed. (Copy handed Glenda for Judge Cox and mailed Judges Coleman & Russell)
- 12-3-74 DEPUTY CLERK SHEET: Hearing in Gulfport on 12/2/74 for 15 min. on motion to compel answers to plaintiffs' request for admissions of facts and genuineness of documents. ACTION TAKEN: Deft. granted 10 days to submit brief—

- under advisement. (Judge Russell discovered, after hearing above motion, that Judge Cox is the Managing Judge—Judge Russell will contact Judge Cox.)
- 12-16-74 Deposition of Interrogatories to Hon. J. Stanley Pottinger, filed.
- 1-17-75 Letter written to U.S. Supreme Court requesting they search their records to see if a portion of this case file is still in their office. List of documents that are missing attached to letter. (Sue)
- 1-24-75 Plaintiffs' Notice to take Depositions of Rims Barber and Dr. David Valinsky on February 3rd and 7th, with Certificate of Service, filed.
- 1-29-75 Deposition of Dr. James W. Loewen with Exhibits, taken by pltf's., filed.
- 1-30-75 Pltf's. motion for an order to defendants to show cause why the current State Legislative Reapportionment should not be enjoined, with cert. of service and notice of motion on 02/07/75 in Jackson at 9:00 AM, filed. (Copies mailed Judges Russell and Coleman and placed in Glenda's Box for Judge Cox.)
- 2-5-75 Amendment to the interrogatories of the Honorable J. Stanley Pottinger, filed.
- 2-7-75 Deposition of Dr. Gordon G. Henderson taken by pltf's on 11/1/74, with Exhibits 1 thru 17 attached, filed.
- 2-7-75 EXHIBITS: P-1 through P-20 and D-1 and D-2; Filed.
- 2-7-75 Deposition of Rims Barber taken by pltf's. on 2/3/75 in Jackson, Miss., filed.
- 3-7-75 Bill of William D. Neal in amount of \$602.58, with Exhibit A, paid by State Attorney General, filed.
- 3-12-75 Pltf's. notice of deposition of Henry J. Kirksey on 03/17/75, with cert. of service, filed.
- 4-9-75 Deposition of Henry J. Kirksey taken by pltf. on 03/17/75 with Exhibits, Filed. (EXHIBITS WRAPPED, MARKED AND PLACED IN VAULT—LARGE SQUARE PACKAGE)
- 4-11-75 JUDGMENT: As managing judge and by direction of the entire Court, it is ORDERED: Entire proceedings before this Court involving the 1967 and 1971 reapportionment of the Legislature are



hereby dismissed without prejudice; Plaintiffs are directed to file in this cause, as Civil Action No. 3830(A), an amended complaint to attack said 1975 enactments of the Legislature of Miss. within 5 days after receipt of a copy of this order; Defts. shall file their answers within 5 days after receipt of copy of such amended complaint; This Court upon receipt of such pleadings will immediately proceed to convene and conduct hearing on questions presented and make prompt and proper disposition thereof. A Copy of the pleadings of the parties shall be mailed directly to the three members of this Court at their proper addresses by the parties, filed and entered OB 1975, pages 661-662. (Copies mailed Judges Coleman & Russell by G. Bond.) (Copies mailed Mr. Brown, Parker, Slaughter, Maxey, Carnes and A. F. Sumner.)

- 4-15-75 AMENDED COMPLAINT for Injunctive and other Equitable Relief, with Exhibits 1 thru 4 and cert. of service, filed. (No Process-Attys. directed to mail copies to Judges per Order of 04/11/75.)
- 4-17-75 Pltf's. motion to alter or amend judgment, with cert. of service and notice of motion on 04/25/75 in Jackson at 9:00 AM, filed. (Copies mailed Judges Coleman and Russell and placed in Glenda's box for Judge Cox.)
- 4-21-75 ANSWER to amended complaint for injunctive relief and other equitable relief, with cert. of service, filed. (Copies mailed Judges Coleman & Russell and placed in Glenda's box for Judge Cox.)
- 4-23-75 Deft's. submission pursuant to Order and motion for approval of the 1975 Apportionment Plan for the Mississippi Legislature with cert. of service and Exhibits I thru IV and indefinite notice of motion, filed.
- 5-7-75 EXHIBITS: P-1 through P-35; and D-1, filed.
- 5-7-75 Pltf's. motion for prompt and immediate decision and for other related relief, filed. (Copy mailed Judge Coleman and handed Gwen and Glenda for Judges Russell and Cox.)

- 5-14-75 Pltf's. motion to supplement the record, with cert. of service and Affidavit of Henry Klibanoff and attachment, filed. (Frank Parker's letter of transmittal stated he had mailed copies to members of three judge court at direction of Court)
- 5-14-75 Court Reporter's transcript of proceedings held in Jackson on 05/07/75 before Judges Coleman, Cox and Russell, filed.
- 5-20-75 OPINION: Except as to Harrison County, the complaint will be dismissed with prejudice; as to that County, jurisdiction will be retained to effectuate the purposes with reference thereunto stated; counsel for parties are directed to forthwith prepare and submit a decree accordingly, which any Judge of this Court is hereby authorized to enter for the Court; the respective parties will bear their own costs, filed. (Judges Coleman, Russell & Cox) (copy handed to all attorneys of record)
- 5-22-75 JUDGMENT: Amended Complaint dismissed with prejudice except as to Harrison County, as to which the Court retains jurisdiction for the limited purposes set out in the Court's opinion of May 19, 1975; that the parties bear their respective costs, filed and entered OB 1975, pages 845-846 (WHC) (copy mailed attys. Frank Parker and John L. Maxey, II; copy handed Ed Noble, Attorney General's office)
- 5-22-75 Plaintiffs' Notice of Appeal to the Supreme Court of the United States from judgment entered 5-22-75, with cert. of service, filed.
- 5-23-75 Pltf's. motion for stay of judgment and stay of the 1975 Miss. Legislative Elections pending appeal, with cert. of service, filed.
- 5-23-75 ORDER: Motion for an order enjoining the 1975 Miss. legislative elections pending appeal to Supreme Court is denied, filed and entered OB 1975, page 851. (Copies mailed Judge Coleman and Judge Russell, and placed in Glenda's box for Judge Cox. Copies mailed attys. of record.)
- 6-6-75 Plaintiff's Motion Temporary Restraining Order. (Copy handed G. Bond, for Judge Cox,



Copy handed G. Bryant for Judge Russell, and Copy mailed Judge Coleman.

- 6-6-75 ORDER: Motion for temporary Restraining Order, is hereby denied, filed and entered OB 1975, page 969. (Copies mailed Judge Coleman and Judge Russell, and placed in Glenda's box for Judge Cox. Copies mailed Attys. for record).
- 6-9-75 ORDER SUPREME COURT OF THE UNITED STATES, Whereof, it is Ordered that the Judgment of United States District Court in this cause is hereby, reversed with costs, and same is remanded to the United States District Court for the Southern District of Mississippi for further proceedings in conformity with the opinion of this Court. It is further ordered that the said appellants, Peggy J. Connor, et al, recover from William L. Waller, Governor of Mississippi, One Hundred Dollars (\$100) for their costs herein expended, filed and entered OB 1975 page 972. (Copies mailed to Jess Brown, Frank R. Parker, John L. Maxey, II and A. F. Summer).
- 6-9-75 Motion for Injunctive Relief and to enforce the mandate of the United States Supreme Court, with certificate of service, filed.
- 6-10-75 ORDER: Motion for Temporary Restraining Order to stay and suspend the 6/6/75, qualifying deadline for party candidates for membership in the Miss. House of Representatives and the Miss. Senate is denied, filed and entered OB 1975, page 980. (Copies mailed attys. of record and placed in Glenda's and Gwen's boxes. Copy mailed Judge Coleman).
- 6-11-75 Motion of USA to intervene as plaintiff, with cert. of service, filed. (Copy mailed Judge Coleman & placed in Courtroom Deputy's boxes for Judge Cox & Russell.)
- 6-11-75 ORDER: USA is allowed to intervene as party plaintiff, filed and entered OB 1975, page 998. (Copies mailed attys. of record and Judge Coleman, and placed in Glenda's & Gwen's box for Judges Cox & Russell.)
- 6-11-75 Complaint in intervention with certificate of the Attorney General of the U.S., filed. (Stated no

- service was required) (Copy mailed Judge Coleman and placed in Courtroom Deputy's box for Judges Cox & Russell.)
- 6-12-75 Motion of USA for preliminary injunction, with cert. of service, filed. (Copy handed Glenda for Judge Cox, handed Gwen for Judge Russell & mailed Judge Coleman.)
- 6-19-75 Deft's. ANSWER to complaint in intervention, with cert. of service, filed.
- 6-19-75 Deft's. petition for a Writ of Mandamus, with cert. of service, filed.
- 6-19-75 Defts'. objections to pltfs' motion for injunctive relief and to enforce the mandate of the Supreme Court of the U. S. and to the motion of the USA for preliminary injunction, with cert. of service, filed.
- 6-19-75 Court reporter's transcript of proceedings held in Jackson on 06/12/75 before Judges Coleman, Cox and Russell, filed.
- 6-20-75 EXHIBITS: J-1 and Court-1, filed.
- 6-20-75 ORDER VACATING JUDGMENT: It is the judgment of the Court that all pleadings involving the 1967 and 1971 Legislature should be and remain as an active part of the entire matter before the Court and to that end said Judgment of the Court dated April 10, 1975 and filed 04/11/75 is rescinded and vacated, filed and entered OB 1975, page 1047. (Copies mailed attys. and Judges Coleman & Russell and handed Judge Cox.)
- 6-24-75 Friend of the Courts Petition of Thomas G. Russell and motion for Single Member Districts, with cert. of service, filed. (Copy handed Judge Cox and mailed Judges Coleman and Russell.)
- 6-23-75 Court Reporter's Transcript of proceedings held in Jackson on 06/20/75 before Judges Coleman, Cox and Russell, filed.
- 6-23-75 ORDER: Dept. of Justice to file memoranda with the Court setting forth, district by district, facts of record demonstrating unconstitutional dilution of black voting strength as asserted by Dept. of Justice, plaintiffs may file similar memoranda as to districts to which they have objected, if they so desire. Further this Court,

where necessary, proposes to alter any district to remedy any existing unconstitutional dilution of black voting strength. Memoranda need not be addressed to Hinds, Harrison and Jackson Counties. Parties advised that the Court proposes to formulate a temporary plan for election of Senators and Representatives for 1975 for election of Senators and Representatives for 1975 election ONLY, first primary schedules for 08/05/75. A permanent plan for reapportionment cannot be now formulated due to lack of time. When permanent plan for election of legislators in quadrennial elections of 1979 has been accomplished, special elections may be ordered in those legislative districts where required by law, equity, or the Constitution of the U. S. Legislative districts altered by temporary plan for 1975, candidates will be allowed adequate time for qualification in the altered districts; however, those already qualified will remain. Scheduled elections for members of the legislature in 1975 will not be postponed. (This order sets out the redistricting of Jackson, Harrison and Hinds Counties.) Ordered by unanimous [sic] direction of the Court, filed and entered OB 1975, pages 1068-1073. (Copies handed attys. of record and handed Judges Cox & Coleman and mailed Judge Russell by Anne Crews. Copy taken to Washington by Charlie Sutherland for Mr. Gerald Jones.)

- 6-25-75 Copy of letter from Judge Cox to Mr. Army Rhoden, U. S. Marshal dated 06/25/75, directing that a copy of above order be delivered by special messenger to Mr. Gerald Jones of U. S. Dept. of Justice, filed.
- 6-27-75 Pltfs' Supplemental Submission on Hinds County Single Member Plans with Exhibits A thru E attached, with cert. of service, filed. (Frank Parker stated to G. Burdette he mailed copy to each of the three Judges.)
- 7-2-75 Marshal's return on letter from Judge Cox to Mr. Rhoden, executed, filed.
- 7-2-75 Motion of City of Jackson, Miss., A Municipal Corporation, to intervene as party plaintiff, filed.

(Copy handed Judge Cox by Mr. Smith and mailed Judges Coleman and Russell.)

- 7-2-75 Pleading of the City of Jackson, Mississippi as Intervener, with cert. of service, filed. (Mr. Smith stated Judge Coleman told him to file the above and a hearing would be had on Mon. July 7, 1975.) (Copy handed Judge Cox by Mr. Smith and mailed Judges Coleman & Russell.)
- 7-3-75 ORDER allowing the City of Jackson, Miss. to file an amicus curiae brief within 3 days from or after 07/03/75, filed and entered OB 1975, page 1106. (Copy handed Mr. Smith of City and mailed other attys. of record.) (Copy handed Judge Cox and mailed Judges Coleman & Russell.)
- 7-3-75 Pltfs. objections to Court-ordered districts established by Order of 06/25/75, with cert. of service, filed.
- 7-7-75 Defendants' objections to the June 25, 1975, Court-Ordered Legislative Districts, with cert. of service and Appendix A & B, filed. (Copies handed Judges Cox, Russell & Coleman.)
- 7-2-75 Letter from Conner Cain of Stone County, Miss. dated 06/30/75 to Mr. Thomas re grievances about Order of June 25, 1975, filed.
- 7-2-75 Letter from Mack McInnis of Greene County, Miss., dated June 30, 1975 to Clerk of Court re new Representative Post, filed.
- 7-7-75 EXHIBIT: D-1, filed.
- 7-8-75 ORDER establishing certain temporary districts for the election of Senators and Representatives in the Miss. Legislature for the year 1975 Only. Clerk of Court shall forthwith furnish a true copy to the Secty. of State of the State of Miss. and to each County Registrar in the affected county for the information of those charged with the duty of preparing and distributing the 1975 primary election ballots, filed and entered OB 1975, pages 1137-1178. (Copies handed attys. of record. Copies mailed Judges Coleman and Russell and handed Judge Cox by A. Crews.)
- 7-8-75 Plaintiff's. Modified Mitchell Plan No. 2, with



- cert. of service and attachments, filed. (Copies mailed to Judges by Mr. Parker)
- 7-9-75 Certificate of mailing certified copies of Order filed on 07/08/75 to Heber Ladner, Secretary of State and to Circuit Clerks of named counties, with attached list, filed.
- 7-10-75 U. S. Dept. of Justice House Plan for Hinds County, filed. (Copies delivered by Highway Patrol to all 3 Judges on 09/09/75)
- 7-10-75 Special Master's House Plan for Hinds County by New Voting Precincts July 9, 1975, filed. (Copies delivered by Highway Patrol to all Judges on 09/09/75)
- 7-11-75 ORDER establishing certain temporary Districts for the election of Senators and Representatives in the Miss. Legislature for the Year 1975 only; Parties shall file with the Clerk of Court plans for permanent reapportionment of the Legislature. Hoyt T. Holland, Jr. is designated to serve as Special master in this case to serve under our orders and directions, filed and entered OB 1975, pages 1193-1239. (Copies distributed to Judges and all attys. of record.)
- 7-14-75 PER TELEPHONE INSTRUCTIONS OF JUDGE COLEMAN: Precinct 8 interlined on page 40 of Order filed on 07/11/75.
- 7-21-75 ORDER: To correct an error in transcription, it is ordered that Order dated 07/11/75, with reference to District 43 for the election of Representatives is corrected as contained in this order, filed and entered OB 1975, pages 1270-1271. (Judge Coleman mailed copies to Judges Cox & Russell. Copies mailed all attys. of record.)
- 7-21-75 Pltfs's. motion to alter or amend judgment with cert. of service and attachments, filed.
- 7-23-75 Deft's. response to motion to alter or amend judgment, with cert. of service, filed.
- 7-24-75 Motion of the United States for amendment of judgment, with cert. of service, filed. (Copies mailed all Judges by U. S. Atty's. office.)
- 8-1-75 ORDER: the Court declines to set a deadline of 2-1-76 for completion of a permanent plan for reapportionment of Miss. Legislature but reiterates

- its firm determination to have such plan approved before 2-1-76; as to all instances in which a special election may be required, the Court expects to direct that same shall be held in conjunction with the 1976 Presidential election so as to save the expense of special elections as far as possible; on pltfs' motion to delete that portion of the Court's order appointing Hoyt T. Holland, Jr. as special master, the Court expects to formulate its own permanent plan and the duties of Mr. Holland will be only to assist in that regard; the matter of costs and attys. fees will be decided in the final judgment establishing the perm. plan—filed and entered OB 1975, pages 1312-1314 (copy handed attorneys of record except copy mailed John Maxey at his request) (copy mailed Judges Coleman and Russell, handed Judge Cox)
- 8-1-75 ORDER: the population figures released by U.S. Bureau of Census giving its population estimates as of 1973 shall be used as the basis of and for the establishment of a permanent plan of reapportionment of the Miss. Legislature—the parties in compiling the various plans to be submitted to the Court will be governed accordingly, filed and entered OB 1975, pages 1315-1317 (copy handed attorneys of record except copy mailed John Maxey at his request) (copy mailed Judges Coleman and Russell, handed Judge Cox)
- 10-8-75 Motion of USA for extension of time for filing plans for permanent apportionment, with cert. of service, filed. (Copies handed Glenda for distribution to three Judges)
- 10-9-75 ORDER: U.S.A. granted up to and including 10-22-75 to file permanent plans for reapportionment of legislature, filed and entered OB 1975, Page 1651. (Copy mailed attys. Parker, Maxey and Atty. Genl., copy handed U.S. Atty.) (Copy mailed three judges)
- 10-9-75 Defendants Submission Pursuant to Order, with cert. of service, filed. (Copy mailed three judges)
- 10-14-75 ORDER: motion of U.S.A. for extension of time until 10-22-75, filed 10-8-75, granted, filed and entered OB 1975, page 1669 (J. P. COLEMAN)

- (Copy mailed attorneys) (copy mailed Judges Coleman and Russell, handed Judge Cox)
- 10-15-75 Pltf's. submission of permanent Legislative Reapportionment Plans, with cert. of service and Exhibits, filed. (Copies mailed all three Judges by Frank Parker)
- 10-20-75 Report to the Court of Department of Justice on special census for Oktibbeha, Lowndes and Noxubee Counties, with cert. of service, filed. (Copies mailed to Judges Coleman and Russell and handed Glenda for Judge Cox.)
- 10-24-75 ORDER: USA intervenor, and the Attorney General of the U. S. as soon as practical after entry of this order shall file with this Court the most current evidentiary data as set out in Order and USA, intervenor shall file a cert. with the Court listing by Counties, alphabetically, the offices to which Negro candidates aspired in said elections, the name of such candidates, and whether or not they were elected, filed and entered OB 1975, pages 1812-1814. (Copies mailed attys. Parker, Slaughter, Smith, Maxey, Summer, Allain, Hauberg and Judges Coleman & Russell and handed Glenda for Judge Cox.)
- 10-31-75 Alternative Plans submitted by the United States Pursuant to Order of 07/11/75, with Exhibits, attachments and cert. of service, filed.
- 1-26-76 Submission of the United States pursuant to October 24, 1975 Court Order, with attachments and cert. of service, with request for hearing date on 02/10/76, filed. (Per tel., Mr. Jones of Dept. of Justice stated he had mailed each of the three Judges a copy of this on 01/24/76)
- 1-29-76 ORDER: Further hearing and decision of this case will be deferred until the Supreme Court shall have decided cited cases, at which time this Court will bring this case to trial forthwith, filed and entered OB 1976, pages 238-240. (Copies mailed Mr. Parker, Smith, Maxey, Summer & Hauberg) (Copies mailed Judges Russell and Coleman. Cpy. handed Glenda for Judge Cox.)
- 2-9-76 Pltf's. supplemental submission of permanent Legislative Reapportionment Plans, with cert. of

- service and attachments, filed. (Copies handed Glenda & Gwen for Judges Cox & Russell and mailed Judge Coleman.)
- 5-21-76 Copy of letter from SUPREME COURT with copy of OPINION OF SUPREME COURT, filed.
- 5-24-76 Certified copy of ORDER OF SUPREME COURT OF U.S.: Motion to file petition for Writ of Mandamus is granted and petition is continued to 06/17/76, filed and entered OB 1976, page 980. (Copies mailed Judges Coleman and Russell and placed in Glenda's box for Judge Cox.)
- 5-26-76 Request of USA for hearing date, with cert. of service, filed. (Copy placed in Gwen's box for Judge Cox and mailed other Judges.)
- 5-27-76 ORDER: Three Judge Court will convene on 06/02/76 in Jackson for further proceedings. Clerk of Court will forward 25 duly authenticated copies of this Order to the Clerk of the Supreme Court of the United States, and will furnish copies to all counsel of record, filed and entered OB 1976, pages 987-988. (25 certified copies mailed Clerk of Supreme Court; Copies mailed attys. of record; Cpy. in Glenda's box for Judge Cox and mailed Judges Russell & Coleman.)
- 6-1-76 Request of U.S.A., Intervenor, for continuance of hearing scheduled for 6-2-76 until after 6-10-76, with cert. of service, filed.
- 6-1-76 ORDER: hearing set for 6-2-76 rescheduled for 6-15-76 at 9 a.m., Fourth Floor, U.S. Courthouse, Jackson, Ms., filed and entered OB 1976, pages 1017-1018 (JPC) (copy mailed attorneys; copy handed G. Bond for Judge Cox, mailed Judges Russell & Coleman)
- 6-14-76 Amendments to pltf's' supplemental submission of permanent plans requested by Court, with attachment and cert. of service, filed. (Copy placed in Glenda's box for Judge Cox and mailed Judges Coleman and Russell.)
- 6-15-76 Preliminary observations of Judge Coleman, before Judges Russell and Cox on hearing in Jackson on 06/15/76, signed by all three judges, filed.



- 6-15-76 Pltf's. motion for an award of attorney's fees with affidavit of Frank R. Parker and cert. of service, filed in Court Room.
- 6-15-76 Motion of United States that all pleadings, memoranda, etc. be filed in record, with cert. of service, filed in Court Room.
- 6-15-76 Affidavit of James F. Manning with Exhibits, filed.
- 6-15-76 MEMORANDUM on adoption of permanent apportionment plan of Justice Dept., with cert. of service and attachments, filed in Court Room.
- 6-16-76 ORDER appointing William D. Neal Associate Special Master to perform functions indicated. Clerk of Court will notify all counsel, by copy of this order, and will make available to Mr. Neal the right to examine plans, papers and documents on file in this case, filed and entered OB 1976, pages 1086-1087. (Copies mailed all attorneys of record. Copies handed the Judges by Jennie)
- 7-19-76 Court Reporter's Transcript of proceedings held before Judges Coleman, Russell and Cox in Jackson on 06/15/76, filed.
- 8-2-76 Pltf's. motion for a prompt and immediate decision on a final court-ordered legislative reapportionment plan and special elections with cert. of service and arbitrary notice of motion, filed. (Frank Parker stated to Iris that he was mailing file-stamped copies to each of Judges.)
- 8-10-76 Letter from United States Circuit Judge James P. Coleman to Clerk of Court dated August 9, 1976 in re to motion of Frank Parker for speedy disposition, filed. (Copies mailed all attorneys of record.)
- 8-10-76 Response of defendants to pltf's. motion for an immediate decision, with cert. of service, filed. (Copies mailed to members of the Three-Judge Court, per letter from A. F. Summer in file).
- 8-11-76 Letter from U. S. Circuit Judge James P. Coleman dated 08/10/76 to Clerk requesting that attorneys be advised that Judge Cox would return to the office on 08/23/76, filed. (Copies mailed attys. of record.)
- 8-24-76 JUDGMENT: Ordered, adjudged and decreed;

1. The permanent plans for the reapportionment of the Legislature of St. of Miss., as hereinafter set forth, shall be in force and effect for the regular quadrennial elections of 1979 and thereafter until altered according to law. 2. Except in those instances in which a special election may hereinafter be ordered, these plans shall not affect the terms of office of legislators elected in 1975. 3. In the event of the death or resignation of a legislator presently in office, the vacancy shall be filled by a special election in that district promulgated for 1979 in which the legislator shall have resided at the time of such death or resignation. 4. The removal by a legislator of his residency from one place to another within the district for which he was elected in 1975 shall not affect the term of office for which he was elected. Further ORDERED, ADJUDGED AND DECREED that the 52 members of the Mississippi State Senate to be chosen in the quadrennial election year of 1979 shall be elected from the districts consisting of specified counties, beats and precincts as set out, filed and entered OB 1976, pages 1578-1619. (Copies handed attys. of record and mailed Justice Dept. Copies handed Press at request of Judge Coleman at no charge)

9-8-76 DECREE: for the regular quadrennial elections of 1979 and thereafter until changed according to law the 122 members of the MISSISSIPPI HOUSE OF REPRESENTATIVES shall be elected from 122 districts as set out. We now direct the parties within 15 days to file a list of districts, if any, for the election of representatives in which special elections should be held, assigning their reasons as to each district and the Court will rule thereon as quickly as reasonably possible. This is not a final decree. The final decree, incorporating all decrees, will be entered when the Court disposes with the matter of special elections, filed and entered OB 1976, pages 1680-1714 (Copies handed attys. of record and mailed Justice Dept. Copies handed Press at request of Judge Coleman)

- 9-8-76 Motion of plaintiffs for Special Election Relief as to certain senatorial districts established by Court's Judgment of 8-24-76, with cert. of service, filed (Copy handed Glenda for Judge Cox and mailed Judges Russell & Coleman)
- 9-8-76 Defendants' submission pursuant to order, with cert. of service, filed. (Copies mailed three Judges per Giles Bryant)
- 9-16-76 Proposal by the United States for special elections, with attachment and cert. of service, filed. (Copies sent to the Judges at their homes per letter from Justice Dept.)
- 9-16-76 Pltf's. motion for special elections (House Plan), with cert. of service and attachment, filed. (Copies mailed to Three Judges per Frank Parker's Secretary)
- 9-20-76 Pltf's. motion to alter and amend judgment and pltf's. objections to 1976 Court-Ordered Legislative Reapportionment Plan with cert. of service and Exhibits A thru E, filed. (Copy of letter showing copies mailed to Three Judges by Frank Parker)
- 9-23-76 Copy of letter from Judge Coleman to Frank R. Parker dated 09/22/76 re hearing on motion and informal conference, filed.
- 9-23-76 Copy of letter from Ashley Atkinson of Miss. House of Representatives to Judge Coleman dated 09/21/76 with Exhibits A thru E re Pike and Amite Counties, filed.
- 9-23-76 Defts'. submission pursuant to Order of 9-8-76 and objections to request for special elections, with cert. of service, filed. (Copies mailed three Judges per Giles Bryant).
- 9-28-76 Proposal by the United States for special elections, with attachment and cert. of service, filed. (Copies sent to the Judges at their homes, per letter from Justice Dept.)
- 9-29-76 Copy of letter dated 9-28-76 from William D. Neal to Hon. J. P. Coleman, re: his recommendation to the Court, which is in line with the suggestions made by Messrs. Atkinson and Walman as well as with that made by Frank R. Parker, as to House Districts 98 & 99, involving Amite and

- Pike Counties, showing copies being mailed all attys. and Judges.
- 10-7-76 Memo from Special Master, William D. Neal, filed.
- 10-8-76 Pltf's. supplement to motion to alter or amend judgment, with cert. of service and Exhibit A, filed. (Copies handed Judges on 10/07/76 per Frank Parker)
- 10-21-76 Copy of letter from Frank R. Parker dated 10/19/76 addressed to Judges Coleman, Cox and Russell re conference of 10/07/76 with Exhibits A & B, filed.
- 10-22-76 Objection of the United States to plans for the redistricting of the Mississippi Senate and House of Representatives contained in the Court orders of 08/24 and Sept. 8, 1976, with Exhibits A thru F and cert. of service, filed. (Letter stated copies were mailed to Judges at their homes.)
- 11-12-76 ORDER: PER CURIAM: Reapportionment of House of Representatives is amended as set out. No special election will be held in newly created senatorial district. No special election will be held in Districts 52 and 81. Special elections will be held in Districts 79 and 97. Remaining District will have no special elections. Time for Special Elections will be delayed until time for appeal has expired or Supreme Court has decided an appeal on merits. Court will retain jurisdiction for setting dates for special elections. No attorney fees are allowable. Fees for Special Master will be determined after hearing and Court retains jurisdiction. Pltfs. and Department of Justice will submit proposed judgment and when duly approved and entered, same will be final judgment on reapportionment on Miss. Legislature, filed and entered OB 1976, pages 2127-2144. (Copies handed all attys. of record.) (Three Judges already had copies.)
- 11-18-76 FINAL JUDGMENT: Defts. are permanently restrained as set out: Reapportionment plans are ordered in effect for regular quadrennial elections of 1979 and until altered according to law; Plans shall not affect terms of legislators



elected in 1975 except as special elections are ordered in House Districts 79 and 97 on a date set by the Court; Court retains jurisdiction for purpose of setting dates for special elections; Except as set out all objections and motions by pltf's. and Dept. of Justice are denied; All costs are adjudged against defts., which will be entered against State of Mississippi when amount is computed; Pltf's. request for award of atty's fees is denied; Fees to be allowed special masters shall be taxed against State of Mississippi and amount to be determined after hearing, for which jurisdiction is retained; Except for injunctive relief, and subject of Court's retention of jurisdiction, the complaint and amended complaints are dismissed, filed and entered OB 1976, pages 2180-2200. (Copies handed Mr. Parker and mailed other attys. of record. Copy handed Glenda for Judge Cox and mailed Judges Coleman and Russell.)

- 11-18-76 FINAL JS 6 CARD FILED.
- 11-18-76 Pltf's. Notice of Appeal to U. S. Supreme Court from paragraphs 7 and 8 of the Final Judgment entered on 11/18/76, filed.
- 11-18-76 Cash Appeal Bond in the amount of \$250.00, filed.
- 11-29-76 Pltfs'. motion to alter or amend judgment, with Affidavits of Frank R. Parker, Prof. Gordon G. Henderson and James W. Loewen attached as Appendix A, B, & C respectively and cert. of service, filed. (Mr. Parker stated that he is sending file stamped copies to each of the three Judges).
- 12-8-76 Letter from Mr. William D. Neal to Hon. J. P. Coleman dated 12-8-76, with written analysis by Special Master of pltf's. objections in his motion to alter or amend Judgment under date of 11-29-76 attached thereto, original and one copy mailed to Hon. J. P. Coleman, one copy mailed Judge Russell and one copy handed Judge Cox, by Glenda but not filed with Clerk, per instructions of Mr. Neal.
- 12-13-76 CERTIFIED COPY OF ORDER OF SUPREME COURT OF THE UNITED STATES: Requests to treat application as an expedited ap-

peal are granted, and probable jurisdiction is noted. Parties may file and exchange such motions under Rule 16 as they desire, and they shall file and exchange briefs on the merits on or before the close of business Monday, 2-7-77. Responsive briefs, if any, shall be filed and exchanged on or before the close of business Monday, 2-21-77. Oral argument is set for Monday, 2-28-77. Any and all other appeals from judgment be taken by filing notices of appeal and perfected pursuant to the Rules of the Court by filing statements as to jurisdiction on or before the close of business Wednesday, 1-5-77, filed and entered OB 1976, page 2397. (Copies mailed Judges Coleman & Russell and handed Glenda for Judge Cox)

- 12-20-76 Letter from U. S. Circuit Judge James P. Coleman dated 12/17/76 to Clerk of Court, with attached ANALYSIS BY SPECIAL MASTER of pltf's. objections in his motion to alter or amend judgment, filed. (Copies mailed all attys. of record.)
- 12-21-76 ORDER AMENDING PREVIOUS JUDGMENT for Legislative districts as indicated; Remaining objections filed by pltfs. are found to be without merit and will be overruled, filed and entered OB 1976, pages 2475-2479. (Copies mailed all attys. of record, and Judges Coleman and Russell. Copy handed Glenda for Judge Cox.)
- 12-27-76 Pltf's. Notice of Appeal to U. S. Supreme Court from Final Judgment entered on 11/18/76 as amended by the Order Amending Previous Judgment entered 12/21/76, with cert. of service, filed.
- 12-27-76 Pltf's. Cash Appeal Bond in the amount of \$250.00 paid into Registry.
- 12-28-76 U.S.A., Pltf.-Intervenor's Notice of Appeal to U. S. Supreme Court the Final Judgment of the Three-Judge Dist. Court entered on 11/18/76, as amended by Order entered on 12/21/76, with cert. of service, filed.
- 12-30-76 Notice of Appeal of Cliff Finch, Governor, etc. to Supreme Court of United States from Paragraphs 1, 3, 5, 6 and 7 of the Final Judgment

entered on 11/17/76, and the order entered 12/21/76, amending the Final Judgment, with cert. of service, filed.

12-30-76 Bond for Costs with United States Fidelity and Guaranty Company in the amount of \$250.00, filed.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Peggy J. Connor, Anne E. Taylor,  
Augusta Wheadon, Ralthus Hayes,  
Catherine Crowell, Henry J. Kirk-  
sey, Elijah Conwell, Jr., Alma Car-  
negie for themselves and others  
similarly situated, and THE MISSIS-  
SIPPI FREEDOM DEMOCRATIC PARTY  
PLAINTIFFS,

—against—

PAUL B. JOHNSON, Governor of Mis-  
sissippi, JOE PATTERSON, Attorney-  
General of Mississippi, HEBER LAD-  
NER, the Secretary of State of  
Mississippi, WALTER SILLERS, the  
Speaker of the Mississippi House  
of Representatives, GEORGE YAB-  
BROUGH, the President Pro Tempore  
of the Mississippi Senate,  
DEFENDANTS.

CIVIL NO. 3830

Filed:

Oct. 19, 1965

I. JURISDICTIONAL STATEMENT

1. This action arises under United States Code Title 42, Section 1983 and Section 1988, and under the Constitution of the United States, particularly Article IV, Section 4, the Fourteenth Article of Amendment thereto, and the Fifteenth Article of Amendment thereto. Jurisdiction is conferred on this Court by United States Code, Title 28, Section 1343, Title 28, Sections 2201 and 2202, Title 22, Sections 2281 et seq., and Title 42 Sections 1983 and 1988.

II. PARTIES

2. Plaintiffs Connor, Taylor, Wheadon, Crowell, Kirksey, Conwell, Jr., Carnegie and Hayes, are United States citizens, citizens of the State of Mississippi, Negro residents respectively of Forrest, Forrest, Lowndes, Lauderdale, Hinds, Bolivar, Holmes, and Holmes Counties, residents of



the 1st, 4th, 7th, 8th, 10th, and 22nd Senatorial Districts and residents of the 1st, 2nd, 3rd, 4th and 5th Congressional Districts. Each of them is a registered and qualified voter of the said State of Mississippi, lawfully entitled to vote in all primary, general and special elections for members of the Legislature of the State of Mississippi, and for members of the House of Representatives of the United States from their Congressional District. Plaintiffs Connor, Taylor, Crowell, Carnegie and Hayes are United States citizens, citizens of the State of Mississippi, Negro residents of Forrest, Lauderdale, and Holmes Counties, residents of the 4th, 8th, and 22nd Senatorial Districts who have, prior to December 1, 1964, been unlawfully prevented from exercising their right to vote in primary, general and/or special elections for members of the Legislature of the State of Mississippi. The Mississippi Freedom Democratic Party is a voluntary unincorporated association of residents and citizens of the State of Mississippi interested in freely exercising their right to vote and to participate fully in the political life of that State, which brings this suit on its own behalf and on behalf of its members. Plaintiffs jointly and severally bring this action on their own behalf and on the behalf of all other citizens of the State of Mississippi who are similarly situated, such persons being so numerous as to make it impractical to bring them all before this Court.

3. The defendant Johnson is sued in his capacity as Governor of the State of Mississippi and a member of the State Board of Elections Commissioners; as such he is vested with certain authority in connection with elections of members to the Mississippi Legislature.

The defendant Patterson is sued in his capacity as Attorney-General of the State of Mississippi, and a member of the State Board of Election Commissioners; as such he is vested with certain authority in connection with elections of members to the Mississippi Legislature.

The defendant Ladner is sued in her capacity as Secretary of State of Mississippi and a member of the State Board of Election Commissioners; as such she has certain authority in connection with elections of members to the Mississippi Legislature.

The defendant Sillers is sued in his capacity as Speaker of the Mississippi House of Representatives; he is the presiding officer of that body, and is here sued as a representa-

tive of all presently acting members of said House, such members constituting a class so numerous as to make it impractical to bring them all before this Court.

The defendant Yarbrough is sued in his capacity as President Pro Tempore of the Mississippi Senate, and he is the presiding officer of that body, and is here sued as the representative of all presently acting members of said Senate, such members constituting a class so numerous as to make it impractical to bring them all before this Court.

4. Common questions of law and fact are involved as to each plaintiff and each defendant named herein, and common relief is sought against each defendant named herein.

### III. THE DILUTION OF THE RIGHT TO VOTE

5. The present apportionment scheme for the State Legislature and Congressional districts, from which the incumbent State Senators, State Representatives and United States Representatives were elected, establishes irrational, invidious, discriminatory and unequal districts which have in the past and presently deprive plaintiffs and all others similarly situated of rights guaranteed them by the Constitution of the United States and the State of Mississippi.

a. As to the Mississippi House of Representatives, Issaquena County has a population of 3,576 and one representative, while Forrest County has a population of 52,722 and two representatives or a representative for each 26,361. Thus the vote cast by a person in Issaquena County is worth 7.4 times as much as a vote cast by a person in Forrest County. There is likewise a gross disparity in the value of votes cast for representatives by persons in other counties in the state. (All figures are compiled from the 1960 Census Report.)

b. A majority of members of the Mississippi House of Representatives is elected by as few as 878,551 out of a population of 2,163,422 or 40.3% of the population control a majority of seats of said body.

c. Each of the 82 representative districts in the State of Mississippi should contain 17,034 persons to be apportioned on a strict population basis. At present, 53 of said 82 districts deviate from this norm by more than 15%. Of the deviations, 24 exceed the norm by more than 15% while 29 fail to meet the norm by more than 15%.

d. As to the Senate, district 44 has a population per

senator of 20,987 while district 1 has a population per senator of 187,045. Therefore, a vote cast in district 44 is worth 8.5 times as much as a vote cast in district 1. There is likewise a gross disparity in the value of votes cast for senators by persons in other counties in the state. Each vote in district 36 is worth 4.8 times as much as a vote in district 2.

e. A majority of votes in the Senate represents as few as 820,249 persons out of a total state population of 2,163,422 or 37.7% of the population of the state control a majority of votes in the State Senate.

f. Each of the 49 senatorial districts should have a population of 41,887 persons per senator to be apportioned on a strict population basis. At present 32 of the said 49 districts deviate from this norm by more than 15%. Of the deviations 8 exceed the norm by more than 15%, while 24 fail to meet the norm by more than 15%.

g. As to the Members of the United States House of Representatives, the five Congressional Districts have a population as follows:

First District:	364,962
Second District:	608,441
Third District:	460,100
Fourth District:	295,072
Fifth District:	449,565

Thus a vote cast in the 4th District is worth more than twice as much as a vote cast in the 2nd District.

h. Each of the Congressional Districts should contain 435,628 persons to be apportioned on a strict population basis. At present, 3 of the 5 districts deviate from this norm by more than 15%. Of the deviations, 1 exceeds the norm by more than 15%, while 2 fail to meet the norm by more than 15%.

#### IV. THE DENIAL OF THE RIGHT TO VOTE

6. Up to and including the date of the election of the present Legislature of the State of Mississippi, there has been a systematic denial of the right to vote to Negro citizens of the State of Mississippi who constitute approximately 42% of the population of the State. Said denial of the right to vote has been effectuated by the following methods:

a. The passage and/or enforcement of legislation inter-

fering with and improperly restricting the right to vote of Negroes, both openly and through the use of devices not appearing to be directed towards disfranchising Negro citizens but in fact having that purpose and effect;

b. Violence and intimidation by public officials, including many elected to office, consisting of assault on Negroes who have attempted to register and others who accompany them to register, and physical intimidation of those suspected of desiring to vote or aiding others exercising their right to vote;

c. Action by public officials condoning private violence, including refusals to protect Negroes and prevent assaults upon them and refusals to ascertain the facts and punish the wrongdoers, when such assaults have taken place;

d. Economic retaliation against Negroes who seek to register, accomplished with the aid of public officials, consisting of taking pictures of those who attempt to register; the printing of the names and addresses of those who wish to register and the requiring of Negroes to return to the registrar's office to determine whether he has passed the test and other devices; all aimed at endangering the personal economic position of any Negro attempting to exercise his right to vote.

e. Misuse of broad discretion by local officials involved in the administration of laws having to do with the right to vote, including the application of different and more stringent standards to Negro applicants than to white, rejection of the applications of qualified Negroes, rejection of Negroes who have equal or superior qualifications than whites who were accepted;

f. Delays, obstruction, technical obstacles, and refusal of routine administrative assistance by voter registrars to Negroes, including subjecting Negro applicants for registration to procedures different from those applied to white applicants, refusals to permit Negroes to apply, unreasonable delays, denying Negroes assistance but furnishing assistance and answers to whites, falsely advising Negroes that they failed the test, and refusals by registrars to see and process Negro applicants.

g. Each of such methods has likewise been used to prevent and obstruct the right of Negroes to run for office or be nominated or be a candidate in both primary and general elections.



7. As a result of such denials no Negro was elected to or now sits as a member of the Mississippi legislature or the Congress of the United States from Mississippi.

## V. CAUSES OF ACTION

8. The facts herein alleged constitute a denial to the plaintiffs of the equal protection of the laws as guaranteed to them by the Fourteenth Amendment to the United States Constitution.

9. The facts herein alleged constitute a violation of the right to vote of the plaintiffs under the Fifteenth Amendment to the United States Constitution.

10. The facts herein alleged constitute a denial to the plaintiffs of their right to a republican form of government, in violation of Article I, Section 4 of the United States Constitution.

11. The facts herein alleged constitute a violation of the Constitution and statute and common laws of the State of Mississippi regarding the conduct of elections and matters ancillary thereto.

12. Plaintiffs and all others similarly situated are suffering irreparable injury to their aforesaid rights by reason of said facts. They have no plain, adequate or complete remedy to redress these wrongs other than by this suit for declaratory judgment and injunctive relief. Any other remedy would be attended by such uncertainties and delays as to deny substantive relief, and would cause further irreparable injury, damage, expense, and inconvenience to plaintiffs and all others similarly situated.

## VI. BASIS FOR THE SPECIFIC RELIEF REQUESTED

13. Plaintiffs and all others similarly situated have no adequate political remedy for the wrongs resulting from the denial to them of the right to vote because the Mississippi Legislature as presently constituted is inherently incapable of securing the constitutional rights of said plaintiffs for the reasons that:

a. Negro citizens have been and are systematically excluded from participation in the election of the present Legislature as well as of past Legislatures in violation of the Fifteenth Amendment to the Federal Constitution.

b. The Mississippi Legislature has consistently, systematically and purposefully discriminated against Negro citizens of Mississippi. Such discrimination evidences the incapacity of this Legislature to protect and enforce the constitutional rights of the plaintiffs.

14. Plaintiffs and all others similarly situated have no adequate political remedy for the wrongs resulting from the dilution of their right to vote because the Mississippi Legislature as presently constituted is inherently incapable of preparing a valid reapportionment plan consistent with the United States Constitution for the reasons that:

a. The apportionment plan under which the Legislature was elected was adopted only three (3) years ago, and yet is on its face unconstitutional;

b. The present Legislature controls the process by which the Mississippi Constitution is amended. The history of past Legislatures in general and of this Legislature in particular demonstrates that a primary purpose and effect of its acts has been to continue the dominion of those groups presently in control of it at the expense of the plaintiffs and all others similarly situated. Not only the establishment of state legislative and Congressional districts of unequal size, but also the determination of the boundaries for such districts, may and in all likelihood will be utilized by the present Mississippi Legislature for this purpose.

15. Unless this Court grants the relief prayed for herein, the result will be the continued sitting of a legislature unconstitutionally elected in a derogation of the constitutional rights of the plaintiffs and all others similarly situated. Said Legislature would continue to sit until January of 1969 and exercise direct governmental power in said State. Plaintiffs and others similarly situated have been, are and will be denied fair representation in the halls of their State Government for a period of over three (3) years duration. During this said period, legislative action and inaction will occur which will directly affect the most fundamental interests of the plaintiffs and others similarly situated. The unconstitutionally elected legislators are responsible for the educational needs of the plaintiffs and others similarly situated, as well as the health and welfare of the said plaintiffs. The Legislature is responsible for public safety, the administration of criminal justice and for the protection of the constitutional liberties of said plaintiffs. Said legislators will

have responsibility and influence over Federal programs designed to meet pressing social and economic problems of many of the State's citizens, such as the Federal anti-poverty programs, aid to education, urban renewal programs, and public housing programs. Plaintiffs and all others similarly situated have a constitutional right to representation, which right has been and is presently denied, and the restoration of which cannot be permitted to await action by the present Legislature of the State of Mississippi or the expiration of its term.

## VII. PRAYERS FOR RELIEF

16. WHEREFORE, plaintiffs, on behalf of themselves and all others similarly situated, pray that this Court:

a. Assume jurisdiction in this matter and convene a statutory three-judge court pursuant to Title 22, United States Code Sections 2281 et seq. [sic]

b. Declare plaintiffs' rights to the effect that the present Mississippi Legislature was elected and is sitting in violation of the Fourteenth Amendment to the Federal Constitution, the Fifteenth Amendment to the Federal Constitution and Article IV, Section 4 thereof.

c. Declare plaintiffs' rights to the effect that the present scheme of apportionment of the Mississippi Legislature and of Congressional Districts in the State of Mississippi violates the aforesaid provisions of the United States Constitution; and that the sections of the Mississippi Constitution and statutes relating to such apportionment, or providing or permitting discrimination against any citizen of the State of Mississippi because of his race or color, now in effect or in effect for the elections conducted for the incumbent members of the Mississippi Legislature or the incumbent members of Congress from Mississippi, are unconstitutional as repugnant to the United States Constitution and therefore are null, void, frustrate and of no effect.

Further, plaintiffs, on behalf of themselves and all others similarly situated, pray this court to issue a temporary and permanent injunction to:

d. Enjoin defendants from carrying out each and any constitutional or legislative duty or right pertaining to the conduct of the legislative business of the State of Mississippi.

e. Enjoin the conduct of any primary, general or special

election for the Mississippi State Legislature until such time as this Court finds that the plaintiffs possess the rights guaranteed them by the Constitution of the United States.

f. Require the defendants to take such action as may be appropriate to remedy the denial by them of the right to vote to the plaintiffs and others similarly situated.

g. Appoint a special master to prepare a plan of apportionment for the House of Representatives and the Senate of the State of Mississippi, and the Congressional Districts of the State of Mississippi, in such manner as to take into account all factors relevant to the protection of the rights of the plaintiffs and the Negro residents and voters of the State of Mississippi.

h. Require the holding of a special election for the said House and Senate when the foregoing has been accomplished.

i. Further, the plaintiffs pray that this Court allow the plaintiffs their cost herein including reasonable attorney fees.

j. Further, plaintiffs pray that this Court retain jurisdiction to supervise and guarantee the proper performance of the foregoing, and to grant such other and further relief as to this Court seems just, equitable and proper.

Attorneys for Plaintiffs:

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ALVIN BRONSTEIN  
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Jackson, Mississippi

PLAINTIFF'S EXHIBIT 19  
MAY 17, 1971

PERCENTAGE VOTES CAST IN FEBRUARY, 1968  
ELECTION FOR CHARLES EVERS, CANDIDATE  
FOR CONGRESS IN THE PRECINCTS LOCATED IN  
THE COGNIZABLE RACIAL MINORITY CONCEN-  
TRATION (CRMC).

SOURCE: Voting records are taken from the Recapitulation Sheets of the Hinds County Democratic Executive Committee, certified copies being filed with the Clerk of the Court. CRMC figures are 1970 Census, Bureau of the Census. Precincts are those in effect at the time of the election.

Precinct Number	Percent of Vote for Evers in Precinct	Enumerator Districts in Precinct within CRMC	Percent Black Population in Enumerator Districts
5	82.1	56, 57, 58	99.045
7	74.4	61, 59, 60,	99.093
22	43.8	19, 20, 35	98.701
23	77.7	20, 21, 31, 33, 36, 37	79.579
24	81.1	21, 23, 26	98.080
25	72.1	29, 30, 34	95.209
26	69.2	56, 62, 70	96.944
28	61.7	69, 70	98.944
29	56.2	24, 28, 29	86.652
40	60.5	100	91.909
41	75.7	105	99.142
43	76.7	106, 107, 130, 131, 133	99.435

PERCENTAGE VOTES CAST IN AUGUST, 1967 ELECTION FOR JACOB L. REDDIX, CANDIDATE FOR REPRESENTATIVE, IN THE PRECINCTS LOCATED IN THE COGNIZABLE RACIAL MINORITY CONCENTRATION (CRMC).

SOURCE: Voting records are taken from the Recapitulation Sheets of the Hinds County Democratic Executive Committee, certified copies being filed with the Clerk of the Court. CRMC figures are 1970 Census, Bureau of the Census. Precincts are those in effect at the time of the election.

Precinct Number	Percent of Vote for Reddix in Precinct	Enumerator Districts in Precinct within CRMC	Percent Black Population in Enumerator Districts
5	76.5	56, 57, 58	99.045
7	62.6	57, 59, 60, 61	99.093
22	46.7	19, 20, 35	98.701
23	68.9	20, 21, 31, 33, 36, 37	79.579
24	65.1	21, 23, 26	98.080
25	60.3	29, 30, 34	95.209
26	57.7	56, 62, 70	96.944
28	53.3	69, 70	98.944
40	54.0	100	91.909
41	71.1	105	99.142
43	70.2	106, 107, 130, 131, 133	99.435

PERCENTAGE VOTES CAST IN AUGUST, 1967 ELECTION FOR EDDIE H. TUCKER, CANDIDATE FOR REPRESENTATIVE, IN THE PRECINCTS LOCATED IN THE COGNIZABLE RACIAL MINORITY CONCENTRATION (CRMC).

SOURCE: Voting records are taken from the Recapitulation Sheets of the Hinds County Democratic Executive Committee, certified copies being filed with the Clerk of the Court. CRMC figures are 1970 Census, Bureau of the Census. Precincts are those in effect at the time of the election.

Precinct Number	Percent of Vote for Tucker in Precinct	Enumerator Districts in Precinct within CRMC	Percent Black Population in Enumerator Districts
5	63.8	56, 57, 58	99.045
7	53.9	57, 59, 60, 61	99.093
22	36.7	19, 20, 35	98.701
23	58.4	20, 21, 31, 33, 36, 37	79.579
24	59.6	21, 23, 26	98.080
25	52.6	29, 30, 34	95.209
26	49.2	56, 62, 70	96.944
28	40.7	69, 70	98.944
29	34.2	24, 28, 29	86.652
40	39.8	100	91.909
41	59.3	105	99.142
43	57.4	106, 107, 130, 131, 133	99.435



OFFICE OF THE CIRCUIT CLERK  
HINDS COUNTY

H. T. Ashford, Jr. *Clerk*  
*Jackson, Mississippi*

STATE OF MISSISSIPPI  
COUNTY HINDS

I, H. T. Ashford, Jr., Clerk of the Circuit Clerk in and for the said State and County do hereby certify that the above and foregoing is a true and correct copy of Pages 3 and 4 of the recapitulation sheets of the election held on August 8, 1967 and the complete recapitulation sheets of the election held on the 27th of February, 1968, prepared by the Hinds County Democratic Executive Committee and filed in this office.

Given under my hand and the seal of the Circuit Court at Jackson, Mississippi this the 12th day of May, 1971.

H. T. Ashford Jr. Circuit Clerk  
By /s/ Sara C. Putnam D.C.

[Recapitulation Sheets Omitted]

Transcript of Proceedings

United States District Court  
Southern District of Mississippi  
Jackson Division  
February 7, 1975

• • •

[59] BY MR. PARKER:

No, Your Honor, be glad to, in fact I intended to ask the Court to take judicial notice of the record in that Hinds County redistricting case.

BY JUDGE COLEMAN:

I will upon the request state now that this Court will take judicial notice of all the proceedings in the Kirksey case.

• • •

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNOR, ET AL.,  
PLAINTIFFS,

v.

WILLIAM L. WALLER, ET AL.,  
DEFENDANTS.

Civil Action No. 3830  
Filed: April 11, 1975

JUDGMENT

It appearing to the Court that the Legislature has recently enacted Senate Bill No. 2976 and House Bill No. 1290 reapportioning the Senate and House of Representatives within the State of Mississippi and that this Court has made no final decision on the 1971 reapportionment case before it and the Court is of the opinion that such 1971 and prior reapportionments proceedings before it should now be finally dismissed without prejudice and that the parties should be required to file an amended complaint involving only the 1975 reapportionment proceedings to simplify the current matter and the issues before the Court;

As managing judge in this case and by direction of the entire Court, it is Ordered and Adjudged by the Court:

(1) That the entire proceedings before this Court involving the 1967 and the 1971 reapportionment of the Legislature are hereby dismissed without prejudice;

(2) That the plaintiffs in this case are directed to file in this cause, as Civil Action No. 3830(A), an amended complaint to attack said 1975 enactments of the Legislature of Mississippi within five (5) days after receipt of a copy of this order;

(3) That the defendants shall file their answers thereto within five (5) days after receipt of a copy of such amended complaint.

This is a matter of extreme importance at this time and time is important to both sides and this Court upon receipt of such pleadings will immediately proceed to convene and conduct a hearing on the questions presented and make a prompt and proper disposition thereof. A copy of the

pleadings of the parties shall be mailed directly to the three members of this Court at their proper addresses by the parties.

SO ORDERED this April 10th, 1975.

/s/ Harold Cox  
UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830(A) (Three-Judge Court)

Filed April 15, 1975

AMENDED COMPLAINT FOR INJUNCTIVE AND  
OTHER EQUITABLE RELIEF

[Caption Omitted]

*A. Jurisdiction*

1. Plaintiffs file this Amended Complaint for Injunctive and Other Equitable Relief pursuant to this Court's Order of April 11, 1975. The successors in office of the original defendants are substituted for their predecessors in office pursuant to Rule 25(d), Federal Rules of Civil Procedure, and are sued individually and in their official capacities.

2. Plaintiffs seek injunctive relief against the enforcement, implementation and/or administration of House Bill 1290, Laws of Mississippi, 1975 Regular Session, and Senate Bill 2976, Laws of Mississippi, 1975 Regular Session as violative of plaintiffs' rights secured by Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, the Fourteenth and Fifteenth Amendments to the United States Constitution, and 42 U.S.C. §§ 1971, 1973, and 1983. Plaintiffs further seek approval by this Court of a statewide, single-member legislative redistricting plan for both houses of the Mississippi Legislature as a remedy for the violations of plaintiffs' rights.

3. This Court has jurisdiction of this action and this Amended Complaint pursuant to 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. §§ 1971(d) and 1973j(f). A three-judge District Court is required pursuant to 28 U.S.C. § 2281 and 42 U.S.C. § 1973c.

*B. Count One: Section 5 of the  
Voting Rights Act of 1965*

4. The State of Mississippi and all of its political subdivisions are covered by and included within the prohibi-

tions and provisions of Section 4(a) of the Voting Rights Act of 1965, 42 U.S.C. § 1973b(a).

5. H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., were enacted by the 1975 Regular Session of the Mississippi Legislature, and signed by Governor William L. Waller. Together they constitute a legislative redistricting plan for the Mississippi House of Representatives and Mississippi Senate which substantially altered and changed the prior districts as established by the Mississippi Legislature in 1971, Mississippi Code Annotated §§ 5-1-1 and 5-1-3 (1972).

6. H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., constitute a standard, practice, and procedure with respect to voting different from that in force or effect on November 1, 1964, within the meaning of Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, as amended.

7. Neither the State of Mississippi, or any of the defendants or their attorneys, nor the chief legal officer of the State of Mississippi have submitted H.B. 1290 or S.B. 2976, Miss. Laws, 1975 Reg. Sess., to the United States Attorney General for review and clearance under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, nor has the State of Mississippi, nor any of the defendants or their attorneys, nor the chief legal officer of the State of Mississippi instituted an action in the United States District Court for the District of Columbia pursuant to Section 5 of the Voting Rights Act for a declaratory judgment that such statutes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

8. The State of Mississippi and the defendants have enacted and approved H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., and presently seek to administer such statutes without obtaining the review and clearance required by Section 5 of the Voting Rights Act of 1965, in violation of the rights of plaintiffs secured by Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c.

*C. Count Two: Malapportionment*

9. H.B. 1290 and S.B. 2976 as they provide state legislative districts are identical to the legislative redistricting plan ordered by this Court in its judgment of May 18, 1971, as supplemented by this Court's order of May 21, 1971, except for Districts 31, 45, and 46 of H.B. 1290.

10. H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., establishing state legislative districts for the elections of members of the Mississippi House of Representatives and Mississippi Senate establish irrational, invidiously discriminatory, and unequal districts which have in the past and presently deprive plaintiffs and all others similarly situated of rights guaranteed them by the Fourteenth Amendment to the United States Constitution.

11. According to the 1970 U.S. Decennial Census of population taken by the U.S. Bureau of the Census, Mississippi had a total population of 2,216,912. Accordingly, the norm, or ideal population size, for a legislative district for election of members to the Mississippi House of Representatives is 18,171 persons, and the norm, or ideal population size, for a legislative district for election of members to the Mississippi Senate, is 42,633 persons.

12. The Mississippi House and Senate districts as determined by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., are grossly malapportioned, and fail to provide for substantial equality of population among the legislative districts.

13. Under H.B. 1290, Miss. Laws, 1975 Reg. Sess., 122 members of the Mississippi House of Representatives are apportioned among 46 House districts. Exclusive of floterial districts, which are covered in the next paragraph, H.B. 1290 creates districts for the Mississippi House of Representatives which are underrepresented by as much as 9.906% from the norm of population equality (District 3, DeSoto and Marshall Counties, total population of 59,912, 3 representatives) and which are overrepresented by as much as 9.823% from the norm of population equality (District 18, Grenada and Montgomery Counties, total population of 32,772, 2 representatives), for a total span of 19.729 percentage points of variance from population equality. Of the 46 House districts created, 23 (half), electing 63 of the 122 representatives (more than half), vary from the norm of population equality in excess of 5% plus or minus. The ratio of the largest to the smallest district is 1.219 to 1.

14. H.B. 1290, Miss. Laws, 1975 Reg. Sess., provides for nine floterial districts, which are special multi-member districts, in which one or more representatives are elected from the district at large and one or more representatives are elected from subdistricts within the whole district con-

sisting of one or more counties or supervisors' districts within the district. Use of these floterial districts further dilutes the weight of the votes in each district and subdistrict. H.B. 1290 creates floterial districts which vary from the norm of population equality by maximum variances of +38.694% (District 4, Monroe County, 1 representative) to -24.269% (District 25, Newton County, 1 representative) for a total span of 62.963 percentage points of variance.

15. Under S.B. 2976, Miss. Laws, 1975 Reg. Sess., 52 members of the Mississippi Senate are apportioned among 33 Senate districts. Exclusive of floterial districts, which are covered in the next paragraph, S.B. 2976 creates districts for the Mississippi Senate which are underrepresented by as much as 9.584% from the norm of population equality (District 29, George, Greene, Perry, and Wayne Counties, total population of 46,719, 1 senator), and which are overrepresented by as much as 9.319% from the norm of population equality (District 19, Kemper and Lauderdale Counties, total population of 77,320, 2 senators), for a total span of 18.903 percentage points of variance from population equality. Of the 33 Senate districts, 18 (more than half), electing 26 of the 52 senators (half), vary from the norm of population equality in excess of 5% plus or minus. The ratio of the largest to the smallest district is 1.208 to 1.

16. S.B. 2976 provides for one floterial district (District 27). In this floterial district the two subdistricts, (1) Covington, Jefferson Davis, Lawrence, and Marion Counties, and (2) Jones County, are over-represented by variances of -5.923% and -10.708 percent respectively, for a total span of 20.292 percentage points of variance.

17. The Mississippi Legislature, and the defendants, have failed to make an honest and good faith effort to construct districts, in both the Mississippi House of Representatives and the Mississippi Senate, as nearly of equal population as is practicable.

18. H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., fail to produce the minimum deviation from the ideal of population equality, both above and below the norm, keeping intact political boundaries.

19. In its 1973 Regular Session the Mississippi Legislature considered and rejected a state legislative reapportionment plan which provided considerably more equality of population among the state legislative districts than is pro-



vided by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess. On January 3, 1973, the Interim Study Committee on Legislative Reapportionment submitted proposals for redistricting of the Mississippi House and Mississippi Senate which would have provided greater equality of population among the districts and would have minimized variances for the House districts to +6.8% and -7.9%, for a total span of only 14.7 percentage points of variance, and minimized variances for the Senate districts to +6.0% and -6.8%, for a total span of only 12.8 percentage points of variance. No districts for either the House or Senate would have had variances over 8% plus or minus. All county boundaries were maintained intact. The recommendations of the Interim Study Committee on Legislative Reapportionment were introduced in the Mississippi House as House Bill 446 and in the Mississippi Senate as Senate Bill 1701, 1973 Reg. Sess., but were not passed in the form in which they were introduced.

20. (a) In its 1975 Regular Session, the Mississippi Legislature considered but rejected state legislative redistricting plans prepared by Dr. David Valinsky, Chairman and Professor of the Department of Statistics, Bernard M. Baruch College, City University of New York, which would have provided much greater equality of population among the districts. (b) The Valinsky plan provided single-member districts, statewide for both the Mississippi House of Representatives and the Mississippi Senate. (c) The Valinsky House plan provided a maximum plus variance of 3.09% and a maximum minus variance of 2.30%, for a total deviation of 5.39%. (d) The Valinsky Senate plan provided a maximum plus variance of 1.66% and a maximum minus variance of 1.73%, for a total deviation of 3.39%. (e) The Valinsky plan for the House was proposed as Floor Amendment No. 5 to H.B. 1290 by Rep. Robert Donald, but was defeated by a vote of 4 to 106. (f) The Valinsky plan for the Senate was considered by the Senate Committee on Elections but rejected without a floor vote.

21. H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., fail to provide for the maximum possible substantial equality of population among the House and Senate legislative districts, unconstitutionally dilute and debase the voting strength of plaintiffs and members of the plaintiff class, consisting of all registered voters of the State of Mississippi, and unconstitutionally and irrationally enhance or

debase voting strength depending upon the happenstance of the voter's area of residence, all in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

22. The failure of H.B. 1290 and S.B. 2976 to provide districts which are substantially equal in population and which conform to constitutional requirements derives in part from the statutes' exclusive reliance on county lines as boundaries for legislative districts, although these statutes fail even to achieve the maximum population equality which could be obtained relying exclusively on county boundary lines. The exclusive use of county lines as boundaries for legislative districts is irrational, arbitrary, and discriminatory.

#### *D. Count Three: Racial Discrimination*

23. (a) Of the 46 districts for election of members of the Mississippi House of Representatives provided by H.B. 1290, Miss. Laws, 1975 Reg. Sess., 33 districts are multi-member districts within which representatives are elected at large from the entire district, and of these 9 are flatorial districts in which representatives are elected from subdistricts. Of the 33 districts for election of members of the Mississippi Senate provided by S.B. 2976, Miss. Laws, 1975 Reg. Sess., 14 districts are multi-member districts within which senators are elected at large from the entire district, and of these 1 is a flatorial district in which senators are elected from subdistricts.

(b) Under H.B. 1290, 109 of the 122 members of the Mississippi House of Representatives, or 89% of the entire membership of the House, are elected from multi-member or flatorial districts in which two or more members are elected from a single district.

(c) Under S.B. 2976, 33 of the 52 members of the Mississippi Senate, or 63% of the entire membership of the Senate, are elected from multi-member or flatorial districts in which two or more members are elected from a single district.

24. (a) H.B. 1290 and S.B. 2976 are identical to the legislative districts in effect for the 1971 state legislative elections, except for Districts 31, 45, and 46 of H.B. 1290.

(b) Of the 29 Black candidates who ran for the Legislature in 1971, 28 were defeated.

(c) Of the 28 Black legislative candidates who were defeated in 1971, 24 were required to run in multi-member districts.

25. The multi-member districts provided by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., are invidiously discriminatory and operate with the purpose and/or effect of minimizing and cancelling out the voting strength of substantial numbers of blacks in the Mississippi voting population.

26. According to the 1970 U.S. Census of Population, Bureau of the Census, the population of the State of Mississippi contains 1,393,203 white persons, or 62.85% white, 815,770 black persons, or 36.80% black, and 7,859 other minority persons, or 0.35% other minorities. Mississippi has a greater percentage of black persons in its population than any other state in the United States.

27. (a) From 1890 to the present time, only one black person, Rep. Robert Clark of Ebenezer, has been elected to the Mississippi House of Representatives, and no black persons have been elected to the Mississippi Senate.

(b) From 1890 to the present time, no Black candidates for the Mississippi Legislature have been nominated for legislative office in any party primary.

28. In Mississippi the political processes leading to nomination and election to the Mississippi Legislature and other elective positions have discriminated against black persons and have had the purpose and/or effect of denying to black persons in Mississippi the opportunities enjoyed by white persons to participate in the political processes and to elect legislators of their choice, including, but not limited to:

(a) At least until 1952, the Rules of the Mississippi Democratic Party excluded blacks from participation in the Democratic primaries of the State.

(b) At least until 1964, the platforms of the Mississippi Democratic and Republican parties adopted at their respective state conventions contained provisions espousing segregation of the races as a principle of those respective parties. Mississippi law (Miss. Code § 3129 (1956 Recomp.)) barred from participation in state primaries any person who was not "in accord with the statement of the principles of the party holding such primary, which principles shall have been declared by the state convention of the party holding such primary," thus banning all advocates of racial inte-

gration and practically all Mississippi black people from participating in party primaries.

(c) At least until 1964, and in many places for many years thereafter, public schools in the state of Mississippi were segregated on the basis of race, and dual, bi-racial school systems were maintained throughout the state.

(d) Prior to the passage of the Voting Rights Act of 1965, qualified black voters in Mississippi were almost completely disfranchised, and prevented from registering to vote, by the racially discriminatory voter registration tests and procedures established by the Mississippi Legislature which were suspended by the terms of the Voting Rights Act of 1965. As of 1964, only an estimated 6.7% of the voting age black persons in Mississippi had been permitted to register to vote.

(e) Black candidates for positions in the Mississippi Legislature have been disqualified from running, and their names have been kept off the ballot, through the application of racially discriminatory and unconstitutional qualifying requirements.

(f) Black people in Mississippi have long suffered from, and continue to suffer from, the results and effects of invidious discrimination and treatment in the fields of education, employment, economics, health, politics, and others. Black people in Mississippi suffer from disproportionately lower income, disproportionately lower educational attainment, disproportionately higher rates of unemployment, and economic dependence upon often hostile whites, all of which constitute difficult, often insurmountable barriers to their free and equal participation in the political processes.

(g) As a result of the above-stated discrimination, voter registration among blacks in Mississippi is disproportionately lower than white registration.

29. The Mississippi Constitutional Convention of 1890 in its reapportionment plan for the Mississippi Legislature diluted Black voting strength and gerrymandered state legislative districts by:

(a) Increasing the number of representatives in the State Legislature by 13 and allotting the increase to the white majority counties;

(b) Creating subdistricts in at least four majority Black counties, and carving out majority white single-member districts to increase white representation in the Mississippi



Legislature and reduce the representation of Black constituencies;

(c) Otherwise, keeping county lines intact in state legislative districts, and dividing the state into three constitutional apportionment districts, and permanently assigning each apportionment district one-third of the members of the House of Representatives, thus limiting the representation from the majority Black counties concentrated in the Delta and River Counties.

30. The Mississippi election statutes are designed to and have the purpose and effect of depriving black candidates for legislative office in at-large, or multi-member districts, of the opportunity to be elected and enhance the opportunity for racial discrimination:

(a) Miss. Code Ann. § 23-3-69 (1972) requires that candidates receive a majority of the votes cast to secure nomination in the Democratic primary, which in most parts of Mississippi is tantamount to election.

(b) Miss. Code Ann. § 3110 (1956 Recomp.) requires that in primaries for selection of nominees for legislative office, voters must vote for the full number of candidates to be nominated, and single-shot voting is prohibited and single-shot votes are rejected.

(c) Under H.B. 1290 and S.B. 2976, candidates for legislative office must run by posts limiting candidates for legislative office from a multi-member district to a specific "post" on the ballot.

31. Since 1965, the Mississippi Legislature has not been adequately responsive to the interests of the black population in Mississippi, has passed legislation which is racially discriminatory in purpose and/or effect, including unconstitutional aid to racially segregated private schools and unconstitutional and unlawful election laws designed to prevent black candidates for party or public office from gaining a place on the ballot or being elected, and has failed to consider or enact bills which have been introduced which were designed to serve the best interests of the black population of the state.

32. The multi-member state legislative districts established by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., are invidiously discriminatory and have the purpose and/or effect of minimizing and cancelling out the voting strength of black voters in Mississippi:

(a) According to the 1970 U.S. Census of Population, 25 of Mississippi's 82 counties are majority black in population. Under H.B. 1290 (Mississippi House), 24 of these 25 majority black counties are included within multi-member and multi-county districts, whereas disproportionately fewer majority white counties are included within multi-member and multi-county districts. Under S.B. 2976 (Mississippi Senate), 17 of these 25 majority black counties are included within multi-member and multi-county districts, whereas disproportionately fewer majority white counties are included within multi-member and multi-county districts.

(b) Under H.B. 1290 and S.B. 2976, substantial concentrations of black population sufficiently populous and compact to form single-member districts for the Mississippi House and Senate are combined with larger concentrations of white population to create multi-member and multi-county districts with over-all white majorities, thus diluting, submerging, and cancelling out black voting strength. Thus, in H.B. 1290, seven black majority counties whose populations exceed or come close to the norm—Marshall, Panola, Noxubee, Kemper, Madison, Claiborne, and Jefferson Davis, and in S.B. 2976, eight black majority counties whose populations exceed or come close to the norm—Marshall, Panola, Carroll, Noxubee, Kemper, Claiborne, Copiah, and Jefferson Davis—are combined with white majority counties to create over-all white majority districts, thus effectively cancelling out black voting strength in those counties.

(c) In large, majority white counties, with sufficient and compact Black population large enough to form majority Black single members districts, such as Lowndes (16,236 Black persons), Warren (18,355 Black persons), Lauderdale (20,630 Black persons), and Adams (17,865 Black persons), two or more representatives in H.B. 1290 are elected in at-large voting, thus submerging substantial Black population concentrations sufficiently large to constitute majority Black single-member districts in county-wide and district-wide white population and voting majorities, thus diluting and cancelling out Black voting strength.

(d) Many of the multi-member and multi-county districts created by H.B. 1290 and S.B. 2976 are exceedingly large, casting a special and often insurmountable burden on black candidates, whose financial resources are disproportion-

ately more limited than those of white candidates, of financing successful campaigns in those districts.

33. (a) H.B. 1290 provides with regard to House District 31 that two Representatives shall be residents of and elected by each of the five supervisors' districts of Hinds County, and two shall be elected by the county at large.

(b) Since Black persons constitute only 39% of the population and only 34% of the voting age population of Hinds County (1970 Census), and since racial bloc voting generally prevails in Hinds County, the at-large feature dilutes and cancels out Black voting strength in Hinds County and prevents the substantial Black population (84,064 Black persons) (1970 Census) from electing Representatives of their choice.

(c) The five supervisors' districts of Hinds County as approved by the Board of Supervisors of Hinds County in 1973 constitute a racial gerrymander and dilute and fragment Black voting strength. Each of the five proposed supervisors' districts contains a white voting age and registered majority. If the United States District Court in *Kirksey v. Board of Supervisors of Hinds County*, Civil Action No. 4939(N), approves the Board's proposed plan, Black voters in Hinds County will be deprived of the opportunity to elect Representatives of their choice in any of the five districts.

(d) H.B. 1290 provides that the 10 Representatives for Hinds County elected by supervisors' districts shall be elected in the 1975 legislative elections from the five supervisors' districts approved by the decision of the United States District Court in the *Kirksey* case "regardless of any modifications to said districts brought about by appellate review." This provision denies plaintiffs their rights to due process and equal protection of the laws secured by the Fourteenth Amendment to the U.S. Constitution and their rights secured by 28 U.S.C. § 2106.

34. S.B. 2976 provides with regard to Senate District 22 that all five Senators shall be elected by county-wide, at-large voting. Since Black persons constitute only 39% of the population and only 34% of the voting age population of Hinds County (1970 Census), and since racial bloc voting generally prevails in Hinds County, county-wide, at-large voting for Senators dilutes and cancels out Black voting strength in Hinds County and prevents the substantial

Black population (84,064 Black persons) (1970 Census) from electing Senators of their choice.

35. As a result of substantial out-migration of adult Blacks from Mississippi since 1970, and the mortality rate among Blacks, and given that in most counties in Mississippi disproportionately fewer Blacks are of voting age or registered to vote than whites, under H.B. 1290 and S.B. 2976, it is extremely unlikely that in 1975 Black candidates for the Mississippi Legislature can win election in any legislative district in the state under H.B. 1290 and S.B. 2976, except in District 16 of H.B. 1290 currently occupied by the state's only Black legislator, Rep. Robert Clark.

36. The multi-member and floterial districts established by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., are racially discriminatory, submerge black voting strength, operate to perpetuate this immediate prior history of discrimination in voting, and invidiously exclude black persons in Mississippi from free, equal, and effective participation in the election of members to the Mississippi House of Representatives and Mississippi Senate, all in violation of the rights of plaintiffs and persons similarly situated secured by the Fourteenth and Fifteenth Amendments to the United States Constitution, and by 42 U.S.C. §§ 1971, 1973, and 1983.

#### *F. Failure to Protect Plaintiffs' Rights.*

37. The Mississippi Legislature has not to date adequately protected plaintiffs' rights to be free from racial discrimination and dilution of voting strength inherent in the legislative districts established by H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess.

38. During the 1973 Regular Session of the Mississippi Legislature, attorneys for the plaintiffs and attorneys for the defendants, including the defendant Attorney General A. F. Summer, met as directed by the Court with members of the Mississippi Legislature. Attorneys for the plaintiffs urged members of the Mississippi Legislature that multi-member districts were racially discriminatory, urged them to enact single-member districts, at least for Hinds, Harrison, and Jackson Counties, and demonstrated how this could be done. In the 1973 Regular Session the Mississippi Legislature passed two bills which partially provided single-member districts in Hinds, Harrison, and Jackson Counties,



House Bill 446 and Senate Bill 1701, although those bills also provided for at-large legislative districts in those counties. However, later in the session, after the deadline for the introduction of new bills had passed, this legislation was superceded by Chs. 456 and 457, Miss. Laws, 1973 Reg. Sess., which failed to provide any single-member districts in those counties.

39. In its opinion of May 18, 1971, this Court held:

"When, however, a county, within its own borders, elects four or more representatives, it would be ideal if it could be divided into districts, for the election of one member to the district. \* \* \* This Court now states, therefore, that as of January 1, 1972, it expects to appoint a special master to take testimony and make findings as to whether the Counties of Hinds, Harrison, and Jackson may feasibly be divided into districts of substantially equal numbers in population for the elections of 1975 and 1979 and to file his recommendations with this Court for appropriate adjudication. As to this, jurisdiction is retained." 330 F. Supp. 506, 519.

No special master was appointed according to the terms of this Court's opinion. On January 3, 1973, plaintiffs filed with this Court a motion for appointment of a special master to implement this holding of the Court. By order of January 4, 1973, that motion was deferred pending action by the Mississippi Legislature, which after three sessions has failed to grant plaintiffs relief. To date no hearing has been scheduled on that motion.

40. On January 24, 1972, the United States Supreme Court vacated this Court's judgment of May 18, 1971, except insofar as it applied to the 1971 elections, and remanded this case back to this Court for further proceedings consistent with the Supreme Court's opinion. The Supreme Court noted that this Court retained jurisdiction regarding single-member districts in Hinds, Harrison, and Jackson Counties, and noted that this Court ordered the appointment of a special master after January 1, 1972 to determine the feasibility of single-member districts for these counties. The Supreme Court further ordered:

"Such proceedings should go forward to be promptly concluded, for, as this Court has emphasized, 'when District Courts are forced to fashion apportionment plans,

single-member districts are preferable to large multi-member districts as a general matter.' Connor v. Williams, 402 U.S. 690, 692 (1971)."

The mandate of the Supreme Court regarding the appointment of a special master has not yet been implemented.

41. (a) In its 1975 Regular Session, the Mississippi Legislature considered but rejected three floor amendments to H.B. 1290 which would have provided single-member districts for the Mississippi House of Representatives.

(b) Floor Amendment No. 1, sponsored by Rep. Charles Mitchell and six other members of the Hinds County delegation in the Mississippi House of Representatives, would have created 12 single-member districts for Hinds County. On the vote on the amendment, eight members of the Hinds County House delegation voted for the amendment, but the amendment lost by a vote of 22 to 84. A copy of proposed Amendment No. 1 to H.B. 1290 in the House is attached as Exhibit 1.

(c) Floor Amendment No. 2, sponsored by Rep. Robert Clark, would have directed the House Committee on Apportionment and Elections and the Senate Committee on Elections to create single-member districts for the House and Senate. This amendment lost by a voice vote. A copy of proposed Amendment No. 2 to H.B. 1290 in the House is attached as Exhibit 2.

(d) Floor Amendment No. 5, sponsored by Rep. Robert Donald, would have created 122 single-member districts statewide for the Mississippi House of Representatives, and was identical to the Valinsky plan for the House admitted in evidence at the hearing in this cause on February 7, 1975. This amendment lost by a vote of 4 to 106. A copy of proposed Amendment No. 5 to H.B. 1290 in the House is attached as Exhibit 3.

42. All available 1970 Census data now has been published, and with this Census data it is now possible to create single-member legislative districts with substantial equality of population among the districts, both statewide and for Hinds, Harrison, and Jackson Counties.

43. Plaintiffs have filed with the Court two plans providing for single-member districts statewide for both the Mississippi House of Representatives and the Mississippi Senate with substantial equality of population among the districts:

(a) The plan drawn by Dr. David Valinsky was admitted in evidence at this Court's hearing on February 7, 1975, as Exhibits P-15 (Mississippi House) and P-16 (Mississippi Senate). Under the Valinsky plan no district has a variance from the norm greater than 3.09%. The House districts range from +3.09% to -2.30%, for a total deviation of only 5.39%. The Senate districts range from +1.66% to -1.73%, for a total deviation of only 3.39%.

(b) The plan drawn by Mr. Henry J. Kirksey has been filed with the Court as an exhibit to the Deposition of Mr. Kirksey taken March 17, 1975, and is attached herein as Exhibits 4 and 5. Under the Kirksey plan, no district has a variance from the norm greater than 2.96%. The House districts range from +2.96% (House District 7) to -2.79%, for a total deviation of only 5.75%. The Senate districts range from +2.39% to -2.62%, for a total deviation of only 5.01%.

(c) In addition several additional plans have been presented to the Court for single-member districts substantially equal in population for Hinds County only. These include the Sweeney plans, attached as exhibits to Exhibit P-3, hearing of February 7, 1975, and a Hinds County Senate plan based exclusively on 1970 Census Tracts, Exhibit P-11, hearing of February 7, 1975.

44. Plaintiffs are suffering immediate and irreparable injury by virtue of the foregoing conduct of defendants, and unless relief is granted will continue to suffer violations of their rights as secured by the Constitution and laws of the United States. Plaintiffs have no adequate remedy at law to redress the deprivations of their rights, and have exhausted their administrative and legislative remedies. Unless this Court grants the requested relief, plaintiffs will continue to suffer irreparable injury.

#### *G. Relief.*

45. WHEREFORE, plaintiffs pray that this Court set this matter for an expeditious final hearing on the merits without further delay, and upon such hearing:

(1) Order preliminary and permanent injunctions restraining and enjoining defendants, their officers, agents, servants, employees, attorneys, successors in office, and all persons in active concert and participation with them from putting into effect, administering, executing, enforcing, or

otherwise requiring compliance with H.B. 1290 and S.B. 2976, Miss. Laws, 1975 Reg. Sess., as violative of the rights of plaintiffs and all persons similarly situated as secured by the Fourteenth and Fifteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1971, 1973, 1973c, and 1983;

(2) Order the defendants to adopt and implement and put into effect prior to the 1975 state legislative primary and general elections statewide, single-member legislative redistricting plans for the Mississippi House of Representatives and the Mississippi Senate;

(3) Enter orders extending the qualifying deadlines for legislative candidates, staying the 1975 legislative primary and general elections, and other such orders as may be necessary to secure the rights of plaintiffs and those similarly situated to statewide, single-member legislative districts for the 1975 legislative primary and general elections;

(4) Grant plaintiffs their taxable costs of this action, necessary expenses of the litigation, and reasonable attorneys' fees; and

(5) Grant plaintiffs such other relief as may be just and equitable.

/s/ Frank R. Parker

FRANK R. PARKER  
HERMAN WILSON

Lawyers' Committee for Civil  
Rights Under Law  
233 North Farish Street  
Jackson, Mississippi 39201

JOHN L. MAXEY, II  
507 East Pearl Street  
Jackson, Mississippi 39201  
Attorney for Plaintiff

[Exhibits Omitted]



Transcript of Proceedings

United States District Court  
Southern District of Mississippi  
Jackson Division  
May 7, 1975

[45] BY MR. PARKER:

We move the admission in evidence, Your Honor, of House Concurrent Resolution Number 55 in the 1973 regular session of the Mississippi Legislature. The Legislature in Mississippi—

BY JUDGE COLEMAN:

Now just one moment. We are going to take judicial notice of all acts of the Mississippi Legislature, all bills introduced in the legislature, and all you've got to do when the time comes to argue your case or to file a brief is just elude to it and direct our attention to it.

[47] BY MR. PARKER:

Exhibit 26 attached was a true and correct copy of the master computer printout of the 1970 U. S. census showing the population data through each census enumeration district in Mississippi as determined by the U. S. Bureau of the Census.

BY JUDGE COLEMAN:

[48] We will allow you in our consideration of this case to refer to any part of the United States Census of 1970 without the necessity of introducing it in evidence.

Plaintiff's Exhibit P-6  
May 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNER, ET AL.,  
PLAINTIFFS,  
vs.  
PAUL B. JOHNSON, ET AL.,  
DEFENDANTS.

Civil Action No. 3830

DEPOSITION OF HAROLD E. SWEENEY, JR.

[2] Taken by Plaintiff  
11:30 A.M., Friday, April 20, 1973  
Room 408, Federal Building  
Jackson, Mississippi

APPEARANCES:

PRESENT AND REPRESENTING  
THE PLAINTIFFS:

Hon. Frank R. Parker, and  
Hon. Herman Wilson  
Lawyers' Committee for Civil  
Rights Under Law  
233 North Farish Street,  
Jackson, Mississippi 39201  
and

Hon. John L. Maxey, III  
Post Office Box 22571  
107 South Farish Street,  
Jackson, Mississippi

PRESENT AND REPRESENTING  
THE DEFENDANTS:

Hon. William A. Allain,  
First Assistant Attorney General,  
and  
Hon. Heber A. Ladner, Jr.

Special Assistant Attorney General  
Post Office Box 220  
Jackson, Mississippi 39205

**COURT REPORTER AND NOTARY PUBLIC:**

Mrs. Glenda Ferguson  
360 Swan Lake Drive  
Jackson, Mississippi 39212

[3] BY MR. LADNER: [Statements made at the start of taking of the depositions.]

We object to the taking of the deposition since the order provided that the plaintiffs must show cause by 9:00 A.M. in Courtroom Two of this building why the plan could not be adopted. It is now 9:15. Second, the deposition appears to be within the scope of the protective order issued by the managing Judge, which prohibited the taking of depositions of staff persons of either the plaintiffs or the defendants in this cause.

Second, there appears to be protection against the taking of this deposition in that the depositions to be taken were specified by the managing Judge by name of the deponent. I was referring to the statements Judge Cox made in open court. The order itself does not name particular persons, but I think we are bound by the oral as well as the written directions of the managing Judge.

BY MR. PARKER:

7 Do you stipulate to waiving notice of the deposition?

BY MR. LADNER:

Yes.

BY MR. PARKER:

I'll just respond briefly. We are here on the order for plaintiffs to show cause filed March 13, 1973 which states: "Accordingly, the plaintiffs and their attorneys of record are [4] hereby cited to show cause before this Court at 9:00 A.M., April 20, 1973, Court Room No. 2 of Jackson, Mississippi, if any they can, why said legislative enactments as passed and adopted should not be approved under the rule announced by the Supreme Court in Mahon v. Howell. . . ."

We have, in response to that order, flown Dr. David

Valinsky in from New York to testify at this show cause hearing. We have flown Mr. Harold E. Sweeney, Jr., in from Carlisle, Pennsylvania to testify at this show cause hearing this morning. Courtroom No. 2 was locked and no judges were there, and counsel for defendants have consented to taking the depositions of these witnesses in lieu of courtroom testimony which was scheduled for this morning.

**HAROLD E. SWEENEY, JR.**

after being duly sworn, was examined and testified on his oath as follows, to-wit:

**DIRECT EXAMINATION BY MR. PARKER:**

Q. Would you state your name for the record, please?

A. Harold E. Sweeney, Jr.

Q. What is your address?

A. 555 South Hanover Street, Carlisle, Pennsylvania 17013.

Q. What is your business address?

A. Department of Social Science, Shippensburg State College, [5] Shippensburg, Pennsylvania.

Q. What is your occupation?

A. I am a political scientist and college teacher.

Q. What is your age?

A. Thirty-nine.

Q. What is your current position?

A. Assistant Professor of Political Science.

Q. Where?

A. At Shippensburg State College.

Q. Would you describe your educational background, please?

A. I'm a graduate of Cornell University and the University of Michigan, and I taught as a faculty member at the University of Michigan, the University of Massachusetts at Amherst, at Jackson State College, and I'm currently at Shippensburg State College.

Q. What degrees do you have?

A. A.B. and A.M. and I am completing a doctoral dissertation at the present time.

Q. What is your Master's Degree in?

A. Political Science.



Q. Have you ever been to Mississippi before?

A. Yes.

Q. Describe how long you were in Mississippi and what you did.

[6] A. I lived in Mississippi for approximately three years. I had made brief visits before that. I was on the faculty of Political Science at Jackson State College.

Q. For how long?

A. For one year and subsequently worked on a consultant basis for the Lawyers' Committee for Civil Rights Under Law.

Q. What was your position at Jackson State College?

A. Assistant Professor of Political Science.

Q. Was that on any particular fellowship or grant?

A. I was a Woodrow Wilson Foundation teaching intern.

Q. What training or background do you have in state legislative reapportionment and re-districting and reapportionment generally?

A. One of my areas of interest is state and local politics, and I have a specialized interest in legislative apportionment as well as Congressional apportionment. My experience in this area has involved the analysis of legislative reapportionment plans in the State of Mississippi, preparation of legislative apportionment plans. I have also been generally concerned with matters of districting at the county level in Mississippi, and at the Congressional level in the State of Michigan, and did prepare some years ago a Congressional districting [7] proposal in the State of Michigan.

Q. Have you prepared analyses of deviations from population equality for re-districting and reapportionment lawsuits in Mississippi?

A. I have.

Q. Would you testify with regard to the particular counties in which you have analyzed county supervisor's districts for deviations from population equality?

A. I worked on this matter in connection with Adams County. The case there is Howard, I believe, versus the Adams County Board of Supervisors. Also in Issaquena County, Hall versus Issaquena County Board of Supervisors. Was your question limited to the county level?

Q. Are those the only ones on a county level?

A. Yes.

Q. How about on the state level?

A. On the state level I analyzed plans which were prepared by the Legislature during the 1971 Session—the various bills that were up, and the final plan that was invalidated by the three-judge District Court in 1971. I prepared analyses of the plan which the Court adopted—the Court plan, and I have examined the 1973 Legislative plan.

Q. Specifically with regard to your analysis of the deviation [8] from population equality in Adams County, were your calculations and statistics accepted by the Court in that case?

A. I don't know if I can answer that. As I recall I testified on that matter, and the upshot of the case was that the districts were found to be violative of the equi-populous district rule. I can't say how the judge arrived at his decision.

Q. What was your testimony in that case?

A. Well, I testified as to the variances, errors in the computation of districts and the like.

Q. So your testimony was that the plan was unconstitutional?

A. In effect, yes.

Q. And what result did the Judge reach in that case?

A. The district plan which the Board had promulgated was held to be infirm.

Q. What was your testimony in the case of Hall versus Issaquena County Board of Supervisors?

A. This involved an analysis of the plan which was adopted by the county Board in either late 1971 or early 1972. I testified as to the variances in the plan as to mathematical errors in the plan, boundary descriptions in the plan, and I also prepared plans which were submitted—four plans which were submitted to the Court for [9] consideration in that case.

Q. Was your testimony in that case accepted by the Board of Supervisors to the extent that they considerably altered setting up their boundary lines to meet your objections?

A. The Board of Supervisors, after seeing our proposal—my proposals, revised their plan and in effect adopted for three out of the five districts the districts which I had suggested in one of my plans. The other two districts were different, and the revised supervisor's plan was the plan adopted by the Court.

Q. What was your role in the litigation involving the 1971 legislative reapportionment?

A. I prepared statistical analyses of the House Bill 515, which was the legislative act redistricting—reapportioning the House and Senate, and these figures were submitted in a brief to the three-judge District Court. And these figures, at least on the Senate side, were cited by the Court in holding the plan to be invalid—constitutionally infirm.

Q. Are there any other cases in which you have testified or prepared statistical material?

A. I did work in a very preliminary way but did not testify in connection with a number of other county districting [10] cases, suggesting ways in which the variances could be computed or could be shown to be excessive. It seems to me that I prepared a small amount of material in connection with Forrest County, as I recall, Oktibbeha County—and I think that would cover it.

Q. As a result of this experience and as a result of your reading and training are you familiar with the means by which mal-apportionment is calculated and measured?

A. Yes.

Q. Are you familiar with the court decisions and constitutional requirements relating to the requirement that legislative districts must be equal in population?

A. Yes.

Q. Have you examined the House Bill 1389 and Senate Bill 2452 which is the subject of this lawsuit?

A. Yes.

Q. Have you examined the floterial districts which are provided under the Legislature's plan which is currently before the Court?

A. Yes.

Q. How many floterial districts are in the Senate Plan?

A. One.

Q. How many floterial districts are in the House plan?

A. Seven.

[11] Q. Would you define for the record, please, what we mean when we say 'floterial district'?

A. A floterial district is a special type of multi-member district. It involves two stages in the allocation of representatives. The initial stage is the award of the apportionment of the number of representatives to what is initially a multi-member district—conventional multi-member dis-

trict. The second stage involving setting up the floterial district is to take one or more of the apportioned representatives and elect them at large or elect the one representative at large throughout the whole conglomerate district. The remaining representatives are then assigned to sub-districts and they are elected from those sub-districts only.

Q. The records in this case indicate the population deviation in floterial districts has been calculated on the basis of taking the whole population of the entire district containing one or more counties, dividing it by the total number of representatives assigned to that entire district, and then calculating the deviation from the norm on the basis of the result achieved by that division. In other words, the deviation has been calculated on the basis of total population of the entire district. Have you examined this method of calculation to determine [12] whether it accurately measures the standard of deviation from population equality?

A. I have examined that method applied to floaters, yes.

Q. And does it accurately measure the standard of deviation from population equality?

A. No.

Q. Why not?

A. Let me illustrate by taking a specific district. House District 4, which was established as a five-member district. It consists of three counties—Itawamba, 16,847; Lee County, 46,148; and Monroe County, 34,043. So that the population of the entire conglomerate is 97,038. If you divide—and this was the apparent procedure which was followed by the court in 1971—this district and the other districts are the same in the 1973 legislative plan as under the 1971 court plan—to divide that figure of 97,038 by five you come up with a percentage variance of 6.808%+. The reason for that is that the ideal conventional multi-member district would be a multiple of five of the norm of 18,171, and this would be a little over 90,000, so that there's an excess there of about 7,000 which drives the variance computed as the court computes it for conventional multi-member districts to 6.808%+. When you examine the [13] floterial breakdown the largest county—Lee—is assigned two representatives for a population of 46,148. Itawamba County, with a population of 16,847, is assigned one representative, and these are direct representatives. Monroe County, with a population of more than twice the size of Itawamba County,



at 34,043, is also assigned a single direct representative. The fifth representative is the at-large floater elected by all three counties. If you take Itawamba County and examine it as a—if you were to consider this as a single-member district—if this had been set up as a single-member district it would be more than 7.2% under the norm. In other words, it is over-represented. The floterial arrangement gives a direct representative to Itawamba County, in other words leaving aside for the moment the effect of the at-large floater, Itawamba County with a direct representative at that point is in the position of a single-member district of 16,847. In other words, more than 7% under the norm. I think I can give you an exact figure on that—7.286% under the norm. Now according to the mathematics used by the court, by assigning part of an additional representative—by giving the residents of Itawamba some role in the selection of still another representative—

[14] Q. That would be the floater representative?

A. The floater representative, yes. You suddenly move Itawamba to a position where it is under-represented, and this logically makes no sense. In other words, Itawamba, by virtue of the direct representative, is going to be over-represented by 7.286%. Any additional representation will have the effect of increasing the over-representation, yet the court concludes—the court's mathematics suggest that in fact the result of adding to Itawamba involvement in the election of the floater is to have the effect of driving the population variance to the plus side of the norm. This is not logical; it is not rational—it makes no sense.

Q. What is the measure of over-representation accorded to Itawamba County by assigning it one whole representative elected by the county and a fraction of the floater representative, which is 16,847 over 97,038?

A. Well, the effect of this is to produce a variance of 21.000% minus.

Q. Does that result in over-representation or under-representation of Itawamba County?

A. Well, it represents substantial over-representation of the residents of Itawamba, and I think just looking at the comparative position of Itawamba residents with Monroe [15] residents, Monroe County of 34,000 is almost large enough to elect two representatives in its own right. In fact, it's twice the size of Itawamba, yet within the allocation of

direct representatives Itawamba gets as much representation as Monroe, being assigned one direct representative.

Q. Is Monroe County in that floterial arrangement over-represented or under-represented?

A. It is under-represented with a variance of 38.694%+. In fact it's rather grievously under-represented given that large a variance.

Q. In measuring mal-apportionment in floterial districts why is it necessary to measure the county share of representation?

A. Well, I think I can answer this by coming at it this way. If you use the method which the court has relied on for non-floterial—let's say conventional multi-member districts—at best you only reach the initial apportionment of representatives to the area—you don't reach the secondary allocation of the assignment of some of the quota of representatives to the subdivisions on a direct representative basis. The only way that you could maintain the variance you—the court comes up with at the initial stage would be to create balanced [16] subdistricts to the extent that you imbalance the subdistrict in terms of their population size—you create a very strong bias which the floater delegate does not adequately compensate for, and this will drive the norm—drive the variance off in one direction or the other the greater the imbalance in the size of the subdistricts. Then as a general matter, the greater your variance in either a positive or negative direction, depending upon the particular population figures involved.

Q. When then is the initial calculation made in that district of 6.808%—why is that a defective calculation?

A. It is a defective calculation because it does not reflect the secondary allocation. It doesn't reflect the fact that the multi-member district has been broken up into parts, that the parts are imbalanced in terms of population. It really does not take account of that factor at all, and therefore it produces—well, it can produce an absurd result, and I can illustrate this by suggesting that if the method applied by the court were used it would be possible in the extreme case to assign 120 members of the Mississippi House of Representatives to the smallest county in the state—Issaquena County with a population of 2,737; to assign to the remaining 81 counties of the state having a population in excess [17] of two million one direct representative, and then to

elect at large throughout the state the 122nd representative. That would in effect make the state one large floter district, and if the mathematics employed by the court were applied to that situation you would produce a zero deviation on the theory that the total state population—the total size of the district would simply be divided through by 122 and you would come up with, of course, a perfect norm of 18,171 on the House side. If this were applied to the 1971 legislative plan which the court found to be unconstitutional—if this mathematics that the court used for floaters were valid then that plan could be relative by reducing Hinds County's allocation of representatives, which was one short under the 1971 plan—they gave them only 11 representatives—reducing that figure to 10 and then taking that representative, electing him at large throughout the state and again calling the state one big floater district. Or you could do this on a regional basis. If you apply this to the Tennessee apportionment that the Supreme Court faced in *Baker* against Carr, then that plan could be cured by taking one representative from Shelby County, electing him at large, and you would have the perfect legislative plan. Again, if this mathematics [18] used by the court were applied in that situation.

Q. Have you calculated the deviations for population equality in the floter districts as established by House Bill 1389 and Senate Bill 2452?

A. Yes.

Q. What are the deviations from population equality in Senate District No. 27?

A. For the Jones subdistrict, 10.708% minus, which is by the way over—one of the variances cited by the court in the District Court 1971 opinion—one of the variances used by the court in overturning the legislature's 1971 plan. The court found that that variance had no rational basis, and listed that variance among the deficiencies which required validation of the plan. For the other subdistrict consisting of four counties—Covington, Lawrence, Marion and Jefferson Davis—the variance would be 5.923% minus.

Q. What are the deviations from population equality in House District No. 1?

A. For the Benton-Tippah subdistrict, 12.091% minus. For the Alcorn subdistrict, 2.735% minus.

Q. What are the deviations from population equality in House District 4?

A. For the Itawamba subdistrict, 21.000% minus. For the [19] Monroe subdistrict, 38.694% plus. For the Lee subdistrict, 2.587% plus.

Q. What are the deviations in population equality in House District 11?

A. For the Coahoma subdistrict, 14.160% minus. For the Quitman-Tunica subdistrict, 8.519% plus.

Q. What are the deviations from population equality in House District 23?

A. For the Lowndes subdistrict, 7.859% plus. For the Noxubee-Oktibbeha subdistrict, 3.874% minus.

Q. What are the deviations from population equality in House District 25?

A. For the Newton subdistrict, 24.269% minus; for the Clarke-Jasper subdistrict 5.421% plus.

Q. What are the deviations from population equality in House District 28?

A. For the Madison subdistrict, 16.587% plus; for the Rankin subdistrict, 6.879% minus.

Q. What are the deviations from population equality in House District 35?

A. For the Lincoln subdistrict, .710% minus; for the Pike subdistrict 12.900% plus. This yields overall on the House side—this extends the maximum variances.

Q. What is the span of variance on the House side?

[20] A. 62.963%.

Q. What is the span of variance on the Senate side?

A. 20.292%.

Q. Is the method by which you calculate deviations from population equality in floter districts supported by any court decisions or judicial precedent?

A. There are some similarities to the method in *Stout* against *Bottor*, an Indiana case. In the Virginia case there were efforts at the District Court level to compute variances for floaters using an alternative approach which, if correctly applied—and it was not in that Virginia case—would produce similar results. There are problems with the method used in the Virginia case.

Q. Are there any court decisions supporting generally the notion of calculating the county share of a floter district other than the ones you mentioned?

A. Well, there are court decisions—a number of court decisions upsetting floter districts. The Texas case, *Kilgallen* against *Hill*, held floter districts under the circum-



stances in Texas to be constitutionally infirm. If my recollection is correct the Supreme Court did not disturb that part of the court's opinion. If my recollection is correct. [21] You have before you notes on which you have shown your method of calculation of the deviation from population equality in each of the floterial districts?

A. Yes.

Q. Could that be made an exhibit to your deposition?

A. As far as I'm concerned, yes.

BY MR. PARKER: I ask that this be marked as an exhibit to the deposition.

[WHEREUPON the seven-page document entitled "Computation of Variances in Floterial Districts" was received and marked as Exhibit No. 1 to the deposition of Mr. Sweeney. This exhibit is appended to this deposition.]

Q. Have you examined the State Legislature's plan with regard to its racial effects?

A. The 1973 plan?

Q. Yes.

BY MR. LADNER: We object to the relevancy.

Q. You may answer the question.

A. I have made a very quick analysis of this. I have examined it, but not in great detail—enough to notice a few things.

Q. Have you noticed and observed any racial differences or racial disparities in the way in which multi-member and [22] single-member districts are distributed in the House side and the Senate side?

A. Yes. If you examine the predominantly black counties—and there are 25 of these in Mississippi—you will find that every one of those predominantly black counties save one—Tallahatchie—is thrown into a multi-member district. In other words, there is a multi-member district alignment. That applies, as I say, to 24 out of the 25 predominantly black counties.

Q. Are you referring to the Senate plan or House plan?

A. I'm referring to the House side now.

Q. How are majority white counties treated in terms of the multi-member or single-member district arrangement in the House plan?

A. Well, in the House plan 33 of the 57 predominantly

white counties elect representatives in single-member districts.

Q. On the Senate side are there any racial differences in the way multi-member and single-member districts are assigned?

A. Yes. On the Senate side 8 out of the 25 predominantly black counties elect their senators in single-member districts, and—.

Q. Does that mean that 17 do not?

A. That is right. 17 of the predominantly black counties [23] are in multi-member districts. And on the Senate side 33 of the 57 predominantly white counties elect their senators in single-member districts. I wish to correct the statement before. I cited the figure 33 out of 57 with regard to the House. That is not correct. And I don't think I have the other figure right at hand.

Q. As a political scientist do you know whether there are any advantages or disadvantages to electing representatives in multi-member districts?

A. I think it's clear that any decision to draw a district line has some political effect. The size of the district from which representatives are elected has some political effect. As a general matter, as the district is enlarged, for example by electing a number of representatives in a multi-member arrangement, *the effect is to submerge minority interests*. These may be partisan interests, they could be ethnic interests, they could be economic, they could be racial—they could be defined as any number of ways, but the effect is to submerge such minority interests and make it less difficult for such minority interests to elect members of their own group.

Q. You said less difficult? Did you mean—?

A. Oh, no. It would make it more difficult for them to [24] elect members of their own group. Generally, where you have smaller election districts you are more likely to produce overall a better representation of the diverse elements in the state, and you're less likely to submerge such elements and see them overwhelmed by whatever majority prevails in a large multi-member district.

Q. Is this just your own personal view, or is this view shared generally by authorities in the area?

A. Well, I think this is generally recognized among the political scientists. I think it's recognized among practicing

politicians here in Mississippi following franchisement of blacks after passage of the Civil Rights Act in 1965. There was extraordinary interest at the state level and county level in moving to multi-member districts. There were efforts to move in the direction of consolidating counties, and I think that practicing politicians and political scientists recognize that the purpose of this was to forestall or prevent the possibility that blacks might be elected to political office, either at the county level or the legislative level.

Q. Have you examined the creation of multi-member districts in the 1973 Legislature's plan to determine whether it has the effect of diluting or cancelling out the votes of black people in Mississippi?

[25] A. I have looked at the plan, yes. I think there are a number of predominantly black counties at the northern part of the state—Marshall County, for example, which is a county of 24,000 people.

Q. What is the racial composition of Marshall County?

A. Well, it's a predominantly black county.

Q. How is Marshall County treated under the House plan for legislative reapportionment?

A. On the House plan it is placed in a multi-member district with DeSoto County. It's a three-member district. DeSoto County is a predominantly white county, and of course the effect of this is to produce overall throughout the district a white majority, transforming in effect the black majority in Marshall County into a white majority overall.

Q. How does the population of Marshall County compare to the norm?

A. It is, as I have indicated,—well, it's 24,027 persons, and this would mean that under a single-member district system—well, let me put it this way, it would be one and a third of the norm. In other words, an entitlement there of one and a third representatives in its own right as a county—use that criteria.

Q. Is the population of Marshall County, given a norm of [26] 18,171, large enough to entitle Marshall County to elect a representative of its choice under a single-member district plan?

A. Well, the population, yes, is sufficient to do this—more than sufficient. Marshall County on the Senate side is also placed in a multi-member district with DeSoto County and

Lafayette County, and again the effect of this alignment is to create overall throughout the county a white majority. It has the effect—throughout the district, I beg your pardon. The share—on the Senate side the share that Marshall County has of that overall district is roughly half of it would have in a single-member district. And of course aligned with Tate County which has a population of 18,544 it would be an ideal single-member district.

Q. For the Senate?

A. For the Senate, and it would have a share of the single-member district which would be the ideal if one used the county as a criterion in building a district.

Q. How does the population of Panola County compare to the norm on the House side? Just tell me whether it is in excess of the norm.

A. Well, it's in excess of the norm.

Q. What is the population of Panola County?

[27] A. 26,829. It's entitled to a little bit less than one and a half representatives.

Q. What is the racial composition of Panola County?

A. It is predominantly black.

Q. How was Panola County treated under the House plan?

A. It is joined with Yalobusha County.

Q. What is the racial composition of Yalobusha County?

A. Predominantly white.

Q. What is the effect of combining Panola and Yalobusha? What is the racial effect?

A. Creates a white majority.

Q. What is the population of Madison County in comparison with the norm?

A. Madison County has a population of 29,737, so that it is entitled to one representative and almost two-thirds of a second representative using the criterion of the county as a unit.

Q. What is the racial composition of Madison County?

A. It is a predominantly black county.

Q. How is Madison County treated in the House plan?

A. It's joined to Rankin County in a flatorial district—four members allocated overall to the district.

Q. What is the racial effect then of combining majority black counties and majority white counties in [28] legislative districts?



A. Well, this depends on what the figures are in the various counties involved. There are a number of instances in the 1973 Legislative plan where predominantly black counties are joined to predominantly white counties, and the black-white population overall is such that the result is a white majority multi-member district.

Q. What effect does this have on the opportunities of voters living in black majority counties to elect representatives of their choice?

A. It makes it very difficult. It poses a barrier, particularly in connection with the procedures for election—election procedures in Mississippi for nominating candidates for the State Legislature.

Q. What election procedures in Mississippi are you referring to?

A. Well, I'm thinking of the fact that under Mississippi law to become a nominee of a political party one has to attain in a primary election a majority of the votes. There are no plurality winners in primaries in Mississippi. If a majority is not attained in the initial primary then a run-off primary is held between the top two vote getters, and the one gaining the majority wins. [29] So that where you have districts, particularly large districts set up so that the black population is overwhelmed by white majority, this in the context of Mississippi makes it extremely difficult for blacks to gain the nomination of a political party, whether it's the dominant party—the Democratic party or the Republican party, and the benefits that come from the party label—the known label, publicity, access to financial or whatever other resources the party may provide. It tends to make it extremely difficult if not impossible for blacks to gain partisan nomination, and the result then is to qualify in the general election as independents.

Q. Do you know of any instance in which a black legislative candidate—that is for the State Legislature—has gained a party nomination?

A. As far as I have been able to determine in the twentieth century no black candidate for the State Legislature has received the nomination for a legislative position for either the House or the Senate.

Q. Does the full slate voting requirements of Mississippi law have any racial effect in this regard?

A. Well, would you explain particularly what you are referring to?

Q. Mississippi law requires that, for example, in a multi-[30] member district system that members in the multi-member district are required to run by posts—that is in the statute.

A. You are referring to the post system?

Q. Let me finish. That post system is provided by the statute which is now under examination. Further, Mississippi law requires that the voter must cast total number of votes equal to the number of positions to be filled, or otherwise his ballot is ruled void. In other words, if there are three posts in a multi-member district system, a voter must cast three votes, one for each post to be elected, or his ballot is void. In your view as a political scientist who is familiar with Mississippi conditions, does this have any racial effect?

A. Yes. The post system—the normal alternative to this in an election system in which the various candidates run in a group and the top vote getters get the nominations or get the seats if it's a general election. This permits what is sometimes called bullet voting where the voter will go in and vote only for his first preference. Under such a system if you vote for other candidates in effect you're counteracting the effect of your initial vote for your preferred candidate. Where bullet voting is permitted the opportunities for a [31] minority to break through the system and elect one of their own is enhanced. Where you have a place system, as you have in Mississippi, there is no bullet voting and this places and tends to spotlight the black candidates and make them targets afforded by political majorities.

Q. What is the racial effect of this system, if any?

A. Well, I think the racial effect of the system is again to pose a serious obstacle to election of blacks in the Legislature.

Q. Have you examined the census data for Hinds County to determine whether it is feasible in Hinds County to provide a single-member legislative plan for the House and the Senate?

A. Yes.

Q. What census materials have you examined, and which census materials have you used in this analysis?

A. I have used the census tracts for the Hinds—Jackson Standard Metropolitan Statistical Area. I have used the block statistics for the Jackson Metropolitan area. I have used the initial computer print-out of Enumeration Districts for Hinds County, Mississippi, and the U.S. Bureau of the

Census revision notes to MCD's, places, tracts and block groups or ED's, Hinds County, Mississippi, [32] dated March 3rd, 1972. If you want a more adequate citation of the other materials I can give them to you.

Q. Are they contained in the plan?

A. Yes.

Q. Are block statistics now available for Hinds County?

A. Block statistics for Hinds County were issued in August of 1971 in Report HC-3-133.

Q. Was there an earlier period in which block statistics were not available for Hinds County?

A. That is correct. Normally these block statistics come out later than the ED material or than the initial census material data dealing with county population, minor civil divisions, census divisions and so forth.

Q. Have you in fact prepared a plan for single-member districts for the legislature in Hinds County?

A. Yes.

Q. I hand you a document which bears the caption of the case and ask that you identify that.

A. This document contains the several plans—single-member district plans, House and Senate, which I prepared for Hinds County, Mississippi in 1972.

BY MR. PARKER: I'd like to ask that this be marked as an exhibit to the deposition of Mr. Sweeney. [33] [WHEREUPON the 151-page document entitled "Plaintiffs' Proposals For Single Member Districts For Hinds County" was received and marked as Exhibit No. 2 to the testimony of Mr. Sweeney. This exhibit is appended to this deposition.]

Q. Is this the plan which Mr. Taylor and I presented to the joint Legislative Committee in January of 1973?

A. That is my understanding, yes.

Q. What does your plan do?

A. Do you want me to explain the criteria?

Q. Yes.

[LUNCH RECESS—12:00 to 1:00 P.M.]

Q. Would you describe the salient characteristics of your Hinds County Single-Member Legislative plan?

A. May I describe the criteria first?

Q. Yes.

A. I have indicated on Page 4 of the Hinds districting proposals the criteria used. The goal—fundamental goal was to hold population variances among the districts to a

minimum with the idea of getting as close as I could to equi-populous districts. Another criterion was to have each district contiguous, which is to say all parts of the district ought to be touching or, as was defined earlier, so that you could walk to any part of [34] the district without leaving or crossing the boundaries of the district. Third, that districts should be reasonably compact, and fourth—the fourth criterion here was to try to see how far we could go in setting up single-member districts without disturbing existing precinct boundaries to come up with a plan that could be easily implemented. So these were the basic criteria developed in drawing up the plan.

Q. Are you satisfied with these criteria?

A. Yes. Now the different criteria produced different tensions. In other words, it is possible to reduce the variance somewhat by breaking more precinct boundary lines. If you emphasize the objective of equi-populous districts and place less stress on the adhering to precinct boundaries you can, as under Plans B for the House and Senate, get quite close to equality in population of the districts.

Q. How many plans do you have for the House?

A. I have two basic plans for the House—A and B.

Q. How many plans do you have for the Senate?

A. If I may finish my previous response—. There is also for the House a Plan A-1, which is a slight adaptation of Plan A, House—very minor change to permit it to be used in a different combination with the Senate proposals.

[35] Q. How many plans for the Senate?

A. I have two basic Senate plans—A and B, and again one option, Plan B-1 which is essentially the same as Plan B—very minor differences. Again, the idea is to provide more flexibility in terms of combinations possible.

Q. In the House side what is the difference between Plan A and Plan B in the House?

A. One difference between Plan A, House and Plan B, House is that Plan B attains a lower maximum variance and a lesser span between the most populous and least populous districts.

Q. What are the spans?

A. For Plan A of the House the maximum variance is 2.518%, and the span is 3.573%. For Plan B the maximum variance is 1.295%, and the span is 2.238%. These data appear on Page 16 in a table.



Q. Now what is the population—what population figures did you use in drawing these single-member plans for Hinds County?

A. Hinds County was assigned 12 representatives. Under the court plan it was treated as severable from the rest of the State. If assigned 12 representatives overall there you have a variance of 1.414 minus, with a norm of 17,914. [36] In other words, overall in Hinds County you have a shortage of roughly 3,000 people, and this has the effect over the county—the shortage from the ideal norm for a 12-member district, but you still come out if you have a perfect division of the county with a norm of 17,914 and a percentage variance of 1.414% minus. So that is your goal, unless you decide of course to break into Hinds County and attach adjacent counties.

Q. Have you done that?

A. Not in this plan.

Q. Now what was the source of your population statistics?

A. The source would be the official data of the United States Census Bureau for 1970.

Q. Did you use any data other than U.S. Census data?

A. I did not.

Q. You relied exclusively on United States Census data?

A. The population figures are the figures—the official figures of the Bureau of the Census.

Q. What was your source of information for the precincts in Hinds County?

A. The precincts—I relied on the legal descriptions of the precincts which appear in the Minutes of the Board of Supervisors of Hinds County. These legal descriptions are also obtainable for the city from—for the City of [37] Jackson.

Q. To what extent do your proposed legislative districts for Hinds County follow pre-established precinct lines?

A. The congruence—I should say they follow precinct lines under Plan A for the House and Senate with the following exceptions. First, the existing Van Winkle I precinct and Midway precinct. The eastern part of those precincts is removed and shaped into a new precinct—Midway II. Other than that, there is a slight change in two precinct boundaries as follows. The line between Jackson City Precincts 39 and 40 is moved slightly, and the line between the Byram pre-

cinct and the Red Hill precinct—these are in the southern part of Hinds County—is moved slightly. Otherwise, the plan follows entirely the existing precincts for the City of Jackson and the County of Hinds so that 111 of the 117 precincts are left as they now are. I might say also that the division into the five Senate districts can be accomplished without any change whatever in the existing precinct structure. The changes which I have just recited are required when you superimpose the House plan, and they are internal to the various Senate districts and therefore they are not affected by the lines drawn for Senate Plan A.

[38] Q. Do your B plans make additional changes—departures from the precinct lines?

A. They do in order to reduce the population variance. And it reduces the population variance by—the maximum variance by roughly 1.2% on the House side, and it reduces the span on the House side by, roughly, 1.3%. The changes made are as follows. Again, a new precinct, Midway II, is carved out of the eastern part of Van Winkle I precinct and Midway precinct. Secondly, slight shifts are made in the line between Precincts 39 and 40, Precincts 17 and 13, Precincts 65 and 66. There is a new precinct, Raymond III, carved out of the western part of existing Raymond I and Raymond II precincts, and there is a division of old Byram precinct into two parts. And we also shift the line between Red Hill and Byram precincts. Altogether, 104 of the existing 117 precincts are left undisturbed.

Q. Is that in the House or the Senate plan?

A. That is on the House Plan B, and if used with Plan B of the Senate you would have the same boundary changes.

Q. What page in your plan is this?

A. That appears—there is a table at Pages 14 and 15 which indicates the various precinct changes in detail.

Q. Now when you gave us the maximum variance and span [39] figures were these based on a Hinds County norm or a statewide norm of 17,171?

A. The figures which I just gave were based on a Hinds County norm.

Q. Could you give us the same figures based on a statewide norm of 18,171 for the House and equivalent figure for the Senate?

A. Yes. The maximum variance in terms of the state norm of 18,171 for Plan A would be 2.454% minus.

Q. What's that? Maximum variance or span?

A. That's the maximum variance. And the span would be 3.522.

Q. Which is Plan A for the House?

A. Plan A for the House.

Q. Plan A for the Senate?

A. Plan A for the Senate in terms of the Hinds norm?

Q. No, statewide norm.

A. I beg your pardon. In terms of the statewide norm would be maximum variance of 1.224% plus, and all of the variances there in terms of the state norm are on the plus side because the Hinds norm is slightly higher than the state norm. Therefore, from zero to the extreme variance in term of the state norm—it would be the same, 1.224%.

[40] Q. That's the span?

A. That's the span in terms of zero. Actually it's less than that if you compare the smallest district and the largest district—it would be .867%. The point is that all of the districts are over the state norm so that you're comparing a plus variance with a plus variance.

Q. Zero plus what?

A. .867%.

Q. Plan B—can you give us the maximum variance and the span for Plan B, House and the Senate, based on the state norm?

A. On the state norm Plan B of the House, maximum variance is 2.344% minus.

Q. And the span?

A. Again, if one computes the span from zero then it would be 2.344% minus. If you compute it on the basis of, again, the smallest and the largest district—all districts being on the negative side of the state norm—then it is 1.931%.

Q. Variance?

A. No, that's the span. 1.931%.

Q. All right. For Plan B for the Senate?

A. Plan B for the Senate has a maximum variance of 1.187% plus. [41] Again, the same problem of computing from zero—all districts being slightly over the norm—it would be 1.187% plus, computed on the basis of the difference between the largest district and the smallest district. Again, we're talking about all districts being on the plus side of the norm. It would be .511%.

Q. So I gather from the figures that you've given us based

on the state norm none of the districts provided under your single-member Hinds County Reapportionment Plan are over 3% in terms of the variance from the population equality, is that right?

A. Are you speaking of maximum variance now?

Q. Yes.

A. That is correct.

Q. Is any district over 3%?

A. Based on the state norm?

Q. Yes.

A. No. If I may finish my previous response, there is no district under my plans which, measured by the state norm, has a maximum variance of as much as 2.5%. They are all under that as far as maximum variance goes, measured by the state norm.

Q. How did you calculate the population of legislative districts in instances where you were required to break [42] precinct lines?

A. Well, one simply refers to the census data—ED's, the census blocks and the census tracts. And this provides the basis for coming up with a population figure. Where precinct lines are broken I have drawn new precincts to accommodate those changes, and for the areas encompassed by the new precincts I have firm population figures. In other words, there is a congruence between the precincts and the census ED's, census blocks and the like to have a coterminous situation in other words.

Q. Are there any instances in which you have broken census blocks.

A. There were a few instances in which census blocks were divided by an ED. Where that is the case one can come up with a figure—an accurate figure for the fragment of the block simply by comparing the ED totals, the totals for the blocks themselves which are not broken and subtract the total for the blocks which are not broken from the ED total, and this gives you the population in the split block. In other words, you're dealing with breaks which follow ED boundaries, and by comparing the ED figures with the block figures you can come up with an accurate figure for the block fragment.

Q. Will you describe so that the court will understand what [43] a Census Enumeration District is?

A. Yes. A Census Enumeration District is a small popu-



lation area averaging roughly 1,000 residents, and defined by the Census Bureau for use in the actual collection and tabulation of population and housing data.

Q. Is that the largest census unit used in Hinds County?

A. No, there are larger—

Q. In terms of area?

A. There are larger units used in terms of area. These would be census tracts.

Q. What is a census tract?

A. Well, a tract is an area larger than a typical ED normally. Nevertheless it is still a fairly small area—a relatively permanent area established usually cooperatively by the local officials and the Census Bureau, and designed initially at least to encompass roughly 4,000 residents. Tracts are made up of ED's.

Q. What is a census block?

A. A census block is a very small area usually. It's usually rectangular, bounded by streets or roads. It most often consists of an ordinary city block or sometimes several ordinary city blocks grouped together. You will have some census blocks which may be irregular in shape—they would be bounded by railroad tracks, streams or [44] other features. The census block in the urbanized area is the smallest census unit that the Census Bureau makes available. Publishes.

Q. Which of these geographic designations has accurate census population data available?

A. It's available for all of these units—tracts, ED's and blocks.

Q. In the City of Jackson what is the relationship between voting precinct lines and census tracts, if any?

A. There is some relationship. Generally the Census Bureau—I'm speaking as a general matter—in setting up tracts attempts to come up with something of a somewhat permanent character, and normally they will attempt to gear the tracts somewhat to jurisdictional lines which are important in the community, such as precincts, so that there is some correspondence between blocks or precincts and census tracts. Certainly there is not complete correspondence though as far as tracts are concerned.

Q. What degree of correspondence is there?

A. That's hard to express in quality of terms. Normally you group together precincts and come up with a conglom-

eration that is congruent with a tract, but not in all cases. This is in the City of Jackson.

[45] Q. Well, my question is: in Jackson do the precinct boundaries generally follow the boundaries of the census tracts or not?

A. Well, normally the census tracts are large enough so that they will encompass a number of precincts. In some cases there would be correspondence and in some cases not. Now at the tract level you're dealing with a geographical unit which is larger than the ED, and when you get down to the ED level then you will find groups of ED's often are congruent with a particular precinct. In some cases if you put two contiguous precincts or three contiguous precincts together you will find a correspondence between whole ED's and the areas which is encompassed within the several precincts. In some cases if you want exact figures for a precinct you will have to go to the next level—blocks.

Q. So you are saying that in Jackson precinct lines generally follow ED lines? Is that your testimony?

A. They often do, but there are exceptions to this.

Q. With what degree of frequency do precinct lines coincide with ED lines?

A. I would think—and this is based not on any statistical analysis of the number of times this occurs—that again if you go to grouping precincts you can find correspondence [46] between groups of precincts and ED's. I would make a very rough estimate—maybe 70% of the time. That's a very rough estimate.

Q. Does this make it easier or more difficult to draw single-member legislative districts within the City of Jackson and Hinds County? That are equal in population?

A. Does what?

Q. The coincidence between ED's and precinct lines?

A. Well, where we find a congruence between ED lines and precinct lines it's easier to employ precincts. Now if you find they are not congruent you still frequently will be able to find an exact population figure for a precinct. In other words, it may consist of one whole ED and a portion of a second ED, and if this is customarily the case, you consider say half an ED and you then go to the blocks—the next level. And you find then an exact figure adding up all the blocks, and that portion of the ED which is attached to the other

ED in the precinct that way you come up with an exact figure.

Q. Are there any instances in which you departed from any of the lines drawn by the Bureau of the Census?

A. There are several instances which I have indicated—which I referred to in the early part, and which I indicated in footnotes. Footnotes 2 and 7 on Pages 17 [47] and 18. The situation in each case is described in the footnotes. One of these was a case in the northern part of the county between the Hinds-Madison County lines and Presto Lane. The west boundary of ED 78 runs down State Street. The boundary of Precinct 80 runs down the Illinois Central Railroad. There is an overlap there consisting of the space which is about 50 feet between the road and the railroad. And what it consists of is railroad embankment and a drainage ditch. There is no dwelling unit in that place, so that you have got there broken blocks, and I inspected the physical situation. I happen to know that particular area well because I lived in that area—I lived in that area at the time of when the census was taken. It's physically impossible to put a dwelling unit in that space. The road actually abuts the railroad right-of-way—we are talking about the distance between the highway and the tracks, and I made a judgment that that part of the blocks that overlap there is unpopulated. There is a similar—

Q. Does that affect the accuracy—that departure from census boundaries, does it affect the accuracy of your population. There is a similar—

A. I don't see how it could. It would be foolish to assume [48] that anybody could live in that space. No dwelling place could be placed there. It would be, I think, absurd to suggest that.

Q. Would you describe the second instance in which this occurred?

A. Yes. This involves a similar situation where a highway runs along and lies immediately adjacent to a railroad track. This appears—this is described in detail on Page 22, Footnote 7. This involves a stretch of road—North McRaven Road, or as it's sometimes known, the Lynch Street Extension, where again there is an overlap between several census blocks and the precinct line. Again, you've got a situation between the edge of the road shoulder and the edge of the tracks. Again you've got an embankment, you've got a drainage area, and it varies from 25 feet to 60 feet.

And, again, I made a judgment that there is no population in that area. Physically, again, it's impossible—and again this is based on a physical inspection of the site. I might say too that some of these blocks that are involved there are indicated by the census data as containing no population, so that if you break up a block of no population you are having no effect whatsoever on the population figures.

[49] Q. In deriving this reapportionment plan for Hinds County did you in any way consider racial composition of the legislative districts which resulted, or racial composition of the population statistics with which you worked?

A. No, I did not. I did not compute or compile or attempt to determine any racial percentage or racial figures. I kept my attention away from such material, so that these are the figures of population that I was working with, and I eschewed any consideration of demographic factors of any sort. Other than population.

Q. Did you draw this plan to the advantage or disadvantage of any racial group?

A. I did not consciously attempt to advantage or disadvantage any group as far as where I placed the boundaries.

Q. Is your plan feasible? Can it be implemented?

A. I think it can be implemented very easily, especially since I have provided complete legal descriptions for every district, House and Senate. I provided complete legal descriptions for any precinct change which would be required, and particularly under Plan A the precinct changes are very limited—very few in number. I think it could be quite readily implemented.

Q. Would your plan, if implemented, cause chaos at the polls?

A. I don't see how it could. Most people in the county—[50] 97% of the county would be voting in the same precinct—there would be no change in precinct whatsoever. There would be a few precincts in which there would be changes, some of them very minor changes. And I really don't think that the changes would be of a magnitude to cause chaos even there.

Q. Would the vast majority of the population of the county still vote at the same polling place?

A. Oh, unquestionably. Again, I would estimate in the order of 97% of the people would vote at the same polling place.



Q. Would implementation of your plan require reregistration of Hinds County voters?

A. I should think not, no.

Q. Why not?

A. Well, the changes are so few that I see no reason why they could not be implemented administratively—administrative transfer. As is done in some counties.

Q. Do you know of any instances in which precincts and election districts have changed and have not required reregistration of voters?

A. Generally throughout the state?

Q. Yes.

A. As I recall, in Adams County precinct changes—some of [51] the more sweeping precinct changes than were involved here—in a county of some 37,000, were put into effect and the necessary adjustments were made through administrative transfer without a reregistration of the voters.

Q. In your view as a political scientist, would the implementation of any of your Hinds County reapportionment plans destroy effective representation of Hinds County voters in the State Legislature?

A. No.

Q. Why not?

A. I don't see how it could. It's not apparent to me any reason for coming to the conclusion that this would destroy the effective representation of Hinds County voters in the State Legislature. I don't see any basis for that.

Q. As a political scientist, Mr. Sweeney, would you be able to say whether the implementation of your reapportionment plan for Hinds County would enhance effective representation of Hinds County in the State Legislature?

A. Hinds County as a whole?

Q. The voters of Hinds County or any segment thereof?

A. I think it's clear that by shifting from an election of 17 legislators at large, which is the current situation in the county, to electing 17 legislators from single [52] member districts you would be likely to get more representation of diverse interests within the county. These could be partisan interests. I would think, for example, one possibility might be—this is not because I planned it that way, I didn't take this into consideration—that the Republican party might well have an enhanced opportunity of winning elective office. I think that the shift from multi-member districts to single-

member districts would enhance the prospect of blacks being elected to legislative positions in the county. I think that it would work to the advantage of other groups—people who are precluded from conducting an effective campaign because of the lack of financial resources or access to publicity necessary to win office on a county-wide basis in a county of more than 200,000 people. So that I would think that as a general matter you would get a more diverse representation of various interests in the county.

Q. It has been suggested, Mr. Sweeney, that the implementation of single-member legislative districts in Hinds County should be delayed pending the establishment of new supervisor's districts. As you may know, the District Court in December held unconstitutional the present alignment of supervisor's districts and required [53] the Board of Supervisors to come up with a new plan. In your view as a political scientist should the implementation of single-member districts in Hinds County for the legislature be delayed pending final resolution of the question of the boundaries of the new supervisor's districts for Hinds County?

A. I see no basis for delay. Well, if for example Plan B House and Senate were implemented as a legislative plan, it might be possible to use the five Senate districts for supervisor district purposes. It might be possible to come up with a different alignment for the supervisor districts. You could, for example, then go to Plan A for the supervisor's districts without making any additional—without requiring any additional changes in precinct boundaries. You could go to some other combination—there is great flexibility, and I really don't see any basis for delay.

Q. In your view which should come first—the definition of the legislative districts or the definition of the supervisor districts?

A. Well, I think that as a practical matter it makes sense to define the legislative districts first. You are dealing with 17 different districts, and I think it is a little easier to set up 17 legislative districts and [54] then come in and impose a five-district supervisor plan than to go the other way and establish a five-district supervisor plan and then try to conform. A plan to elect 17 legislators—conform to that.

Q. Why? Would you explain that answer?

A. Well, I think it comes simply from the fact that you don't require as much flexibility in establishing a plan for a

small number of districts. In other words, you're dealing with fewer variables if you set up your more complex plan first and then come in with a less complex plan rather than going the reverse route. I think that as a general matter it would be easier to do this.

Q. Do you know whether there is any historical precedent for providing for legislative districts within the boundaries of Hinds County?

A. In the past there has been an internal division in Hinds County. As I recall, the division permits the City of Jackson to elect members in its own right, and the rest of the county also to elect members in its own right—as I recall.

Q. Under the Legislature's plan all of the members of the House of Representatives and the Senate are elected at large—under the plan currently up for consideration. [55] In your view as a political scientist does this have any racial effect?

A. Well, you have in Hinds County a black racial minority around 39%, and I think the effect of a multi-member election system is to submerge that minority and place them at a disadvantage in terms of electing blacks in the legislature. You go to single-member districts and I think quite clearly the normal tendency would be to enhance the prospects of black minority or other minorities to electing members of their group to office.

BY MR. PARKER: I don't believe I have any further questions at this time.

[BRIEF RECESS.]

*CROSS EXAMINATION BY MR. LADNER:*

Q. Mr. Sweeney, are you familiar with the contents of Senate Bill No. 2452 and House Bill 1389 as they reapportioned the State of Mississippi?

A. The 1973 acts, yes.

Q. Are these in all respects identical with the District Court plan of May, 1971?

A. Except that I believe residence requirements were placed on the House side which did not appear in the court plan. This is a requirement which also appears in Mississippi law, so it's a minor change and has no practical effect.

[56] Q. But in the main we're talking about the same plan?

A. Talking about the same plan, yes.

Q. Then this is the very plan that you characterized on direct examination as being irrational, unreasonable and making no sense?

A. I don't recall using that specific line. If you want to go back and get that—

Q. I noted specifically that you did use that language. Do you agree with that characterization now?

A. Would you give me that again?

Q. Irrational, unreasonable and makes no sense.

A. I think there are certainly irrational aspects to it, particularly the floterial arrangements. I think the problem is defining what is rational—what is rational to somebody is not necessarily rational to somebody else.

Q. Well, without unnecessarily burdening the Court Reporter I think a scanning of your testimony would reveal that you did say that. I'm concerned with your method of mathematics for computing variance, particularly with respect to the floater districts. Are you aware that that method of calculating districts was rejected in the Mahon case—the Virginia case?

A. No, I was not.

Q. It was not rejected?

[57] A. No, I think if you look at the Mahon case the method which was used was not the same method as I am using. And, secondarily, I think if you'll read the Supreme Court opinion you'll find that the Supreme Court did not reach the question of the particular procedure involved.

Q. But the plaintiffs were saying there that the variance exceeded 16.4%, and in the dissent Mr. Justice Brennan indicated that these same plaintiffs might later go back and try to prove a different variance, did he not?

A. Brennan stated that, yes.

Q. I'll read you this. The dissent of Mr. Justice Brennan—

A. That's the dissenting opinion, of course.

Q. Yes. "The District Court pointed out that the range of deviation may exceed 16.4%, but it had no occasion to consider whether 23.6% was the more accurate figure." So there was a question in that case about what the variance was?

A. There was a question at the District Court level. The Supreme Court did not make a definitive determination and



Justice Linquist's [sic] language was to the effect the Court declined to pass on that issue, so that it did not reach that question.

Q. But to your knowledge the majority opinion in Mahon used [58] the simple method of calculation and did not try to define whatever disparity floterial districts may indicate, did it?

A. No.

Q. Then you are in effect out on a limb aren't you in your calculation?

A. On the contrary. The first part of your previous question contains an assumption that is not correct.

Q. And what is that assumption?

A. You are assuming that the court accepted a method of computation for floaters that was used by the three-judge District Court in the Mississippi case. My point is that the Supreme Court did not pass on that issue—it declined to reach that issue, so it really did not decide the matter.

Q. Well, are you aware that—

A. And that is a different method of arriving at it.

Q. Are you aware—

A. Computation of floaters than I have used.

Q. Are you aware that our court has stated that this particular plan involves variation on the order of 17% for one house and 18% on the other?

A. Well, let me get the exact figures on that. The exact figures on the House side—and this ignores the effect [59] of the floaters—it simply takes the face value which I decline to do. The Court's mathematics was 19.729% total variance on the House side.

Q. What was it on the Senate side?

A. 18.903%—ignoring the effect of the floterial district in District 27—floterial arrangement in District 27.

Q. So you are now asking the court to recompute a variance which it's already determined for the same plan, is that correct?

A. I'm stating that the Court's computation—the Court's mathematics are invalid as applied to floterial districts.

Q. Actually what you're doing is treating the floaters as lesser included single-member districts, aren't you?

A. No.

Q. Well, you're redefining the constituency, then, aren't you?

A. No, the constituency is defined—the district is defined by the arrangement prescribed by the Court.

Q. But you are looking at the share of the given multi-member representation that is enjoyed by a particular county, aren't you?

A. No. I'm looking at the legislator-constituent ratio for the floater district and the legislator-constituent ratio for the direct districts. And when you sum those [60] ratios you come up with a fractional ratio which gives you a variance for the subdistrict. You do this for each of the subdistricts.

Q. Even though you say the District Court's figures are invalid you don't deny that they made a finding of fact as to what the variances are with this same plan?

A. That is, I think, a legal question as to whether or not they made a finding of fact. I am simply saying that the method of computing the variances for the districts is invalid.

Q. Would you comment on this statement from the Mahon case: "We decline to enter this imbroglio of mathematical manipulation and confine our consideration to the figures actually found by the court and used to support its holding of unconstitutionality." Does that statement not reflect that a simple method of calculation such as would compute the norm, compute the number of total population, compute the number of representatives, and then determine the variance? Do you dispute that that is not the approved method?

A. Could you restate that question as I lost the train of it as you were expressing it.

Q. Do you dispute that the normal method of computing variance is to identify the norm, total the population [61] for the constituency, divide by the number of representatives and determine how far short or above the variance that quotient is?

A. That is the method most commonly used in determining variances for single-member districts and conventional multi-member districts. I would not call this a normal or proper method when applied to floterial districts.

Q. Thank you. Where multi-member districts are used wouldn't there be a normal across the board relationship between number of multi-member constituencies and the number of seats in states where these plans are used?

A. Where multi-member plans are used?

Q. Yes.

A. Multi-member or single-member?

Q. Multi-member.

A. Complete multi-member plans?

Q. Yes.

A. In other words, no single-member districts whatsoever in the state?

Q. Yes.

A. And would there be a relationship between that and—?

Q. The number of seats?

A. Obviously, if you had a multi-member district plan throughout the House of the Legislature you would have [62] more than one seat in each individual district.

Q. I don't think you followed my question. There are 22 districts in the Senate and 52 members; 46 districts in the House and 122 members.

A. No, I think that there are 33 districts in all in the Senate and 46 in the House.

Q. So with a multi-member plan, we are talking about a ratio of constituencies to seats of on the order of one to two or one to three, aren't we?

A. Across the state on the House side you are talking about on the order of three, yes. Now it's a mixed plan.

Q. So no conceivable multi-member district plan that was at all rational would be of the kind you described where Issaquena County would enjoy one representative and the rest would be at large?

A. On the contrary we submitted in 1971 a proposed House plan with a lower maximum variance and lower span than the court plan, and in that case had Issaquena County as a single-member district.

Q. I'm sorry but that wasn't responsive to my question. Your example of Issaquena County having one representative and the rest being elected at large was just your own wild extrapolation from your own theory, wasn't it?

A. No.

[63] Q. What was it then?

A. It was a computation of the legislator-constituent ratio as far as residents of Issaquena County were concerned, both for the subdistrict and the floater district. In other words, the residents of Issaquena—Itawamba County vote in an at-large district for the election of floater, and they also vote for a direct representative elected from the boundaries from within the county itself.

Q. You've read most of the pertinent reapportionment cases, haven't you? United States Supreme Court?

A. I've read many of them, yes.

Q. You are aware that multi-member districts are not per se unconstitutional, aren't you?

A. The Court has stated that.

Q. And you are also aware that the United States Supreme Court has rejected your arguments concerning the inadvisability of multi-member districts, aren't you? In your argument that there would be a lack of proportional representation for certain economic groups?

A. No, I don't think that's a correct statement at all.

Q. Then you deny that those two things—dilution and lack of proportional representation—were specifically and flatly rejected out of hand in *Whitcomb v. Chavis*? [Phonetically]

[64] A. I think you have to examine any case on the facts of the case. The Supreme Court has left open the door to show that multi-member districts under the circumstances in a particular situation do have a discriminatory effect. It has not foreclosed that possibility.

Q. You've testified that the multi-member constituency in Hinds County submerged minority interests. What interests were you talking about?

A. I'm thinking of racial interests, I'm thinking of partisan interests—there are many possible interests. I think rural people as a class—people who live outside the City of Jackson which dominates the county—there would be some tendency for their interests to be submerged where a single large city so overwhelmingly dominates the county.

Q. As a political scientist are you seriously saying that blacks don't have representation unless they're represented by blacks?

A. I would think in the context of Mississippi that blacks are not adequately represented as a general matter.

Q. What is your basis for saying that?

BY MR. PARKER: Let him finish his answer.

A. —Are not adequately represented as a general matter by the existing legislature.

[65] Q. What is your basis for that?

A. I think the basis for this—there are several bases. One, this is a state with the largest percentage of blacks in the nation—37%. Secondly, it is a state with a long history



of discrimination, exploitation, using the authority of government on blacks as a class. I think that this has left a residue and I think the residue as effects political behavior. I think as the present system is set up as a general matter the interests of blacks are not adequately represented in the legislature as presently composed.

Q. Senator Con Maloney testified that he and the Hinds County delegation were able to help Jackson State College with its appropriations because the county was not vulcanized into single-member districts. Doesn't that cut against your observations about the effect of multi-member districts?

A. It is hard for me to comment on that statement without knowing the context, but just as it stands without really knowing the context I don't agree with that.

Q. You cannot see how a large county delegation united behind a certain cause could be of more effect than 17 separate constituencies in Hinds County?

A. Well, I think it depends on what the cause is. I think [66] that there are many causes—.

Q. As a political scientist you cannot understand that?

A. I think it depends on what cause you're talking about.

Q. Talking about a special appropriation for Jackson State College.

A. I don't think the fact that you have a multi-member district election system necessitates a particular result on such an appropriation. I don't think the fact that you have an at-large arrangement means that one Senator can be effective on a particular issue.

Q. You cannot understand that there are county-wide interests that demand county-wide representation—interests which are furthered by multi-member constituency?

A. I think any decision on where you draw a boundary or what boundary you follow, whether it is a county boundary or a boundary internal to the county, has a political effect. And I think the real question here is what interests are affected by one type of political arrangement versus another type of political arrangement. So that I think there are many interests in the county and I would not accept the idea your question seems to suggest that the only interest that deserves legislative representation is an interest in which the majority of [67] the county happened to be united.

Q. Representative Lester—Horace Lester testified that having Hinds County as a multi-member district actually maximized public revenues because in a single-member set up certain areas of the county would be more hostile to taxation than others. Do you dispute that?

A. I don't see any basis from what you have given me in your statement for arriving at the conclusion which you attribute to Representative Lester.

Q. How long did you live in Hinds County?

A. About three years.

Q. Are you aware that there are certain areas in the county that are more well-to-do than others?

A. Yes.

Q. And that these same areas might be less resistant to taxation than others?

A. They might or they might not—that would depend on the effect of time.

Q. And the fact that the specific example of Representative Lester, southeast Jackson is likely to be more hostile to increased taxation than northeast Jackson?

A. Oh, I would not accept that as a general matter. I think it depends on what kind of tax you're talking about. We have different taxes, and taxes affect different interests [68] and people of different economic level in different manners.

Q. Well, at any rate you would sacrifice—

A. I would not agree with that—it is too sweeping a general thing.

Q. At any rate, you would sacrifice the interest of respecting the boundaries of political subdivisions to your own preference for single-member districts, wouldn't you?

A. Political subdivisions meaning specifically what?

Q. Counties.

A. I would be prepared to break some county lines in order to set up a single-member district plan, because I think that on balance you get under a single-member district plan statewide a better representation of the diversity of interests in a state than you get in a—what you have under the court plan which is a mixed multi-member single-member district plan with of course some of the multi-member districts running to a rather large number of representatives. Or senators.

Q. You testified on direct that single-member districts in

Hinds County enhanced the representation of a certain segment of the population, did you?

A. Well, I believe that the present multi-member district [69] system discourages the election of blacks to office. I would think that going to districts which were smaller geographically as a result of the single-member district plan would enhance the prospects that blacks would be elected to public office.

Q. But a plan written specifically to enhance their representation, wouldn't be a constitutional plan, would it?

A. You cannot go out and deliberately set up districts with the idea that you want to favor this political interest or that political interest. The proper way to develop a districting plan is to develop a set of criteria which act as restraints on you—which act as inhibitions so that when you make judgments as to where you put a boundary or how you draw a district you are operating within the context of such strictures or restraints, and these tend to encourage you to make non-arbitrary judgments—impartial judgments when you make these decisions.

Q. But your own personal preference is for greater black representation and any plan you would draft would be colored by that aim, wouldn't it?

A. Well, my feeling is that as a general matter you do not get an adequate representation of the diversity of interests in an area where you have multi-member districts. [70] That is, you get a better representation of the diverse interests where you have in contrast single-member districts.

Q. Is one of your governing assumptions as a political scientist that blacks vote for blacks and whites vote for whites?

A. I think in the context of Mississippi politics very few whites vote for black candidates. Blacks may vote for white candidates and in many cases there are only white candidates on the ballot. Blacks aren't likely to vote for weak or politically unattractive black candidates, so that I think that if there is a voting on racial lines it is primarily characteristic of the white population and the tendency which is rooted deeply in the history of prejudice and discrimination against blacks in Mississippi is to vote against black candidates.

Q. Are you aware of the legislative race which was run between Representative Kenneth Williams and candidate Aaron Henry in House District No. 11?

A. I'm not aware of the details of that race.

Q. Well, let me apprise you of the fact that Representative Williams won and that the constituency has a fairly substantial black majority. Doesn't that explode your theory?

[71] A. Could you give me the number of that district? [Brief off-the-record pause in proceedings.]

Q. To illustrate my question I show you a schematic diagram of the House of Representatives. And you see the subject district, do you not?

A. Yes, I do.

Q. Does that district not have a substantial black majority?

A. I'm speaking of the Coahoma subdistrict now?

Q. Yes.

A. Yes, it does.

Q. Assuming with me for the moment that Representative Williams won, doesn't that result belie your theories about how people vote?

A. Not necessarily.

Q. Why not?

A. For one thing, it's a rather large district. It contains over 40,000 people, and I think that if I recall correctly in that particular county there were efforts to purge the voting rolls and to require reregistration of voters. That particular county—that area has a lot of blacks of a low level of education, they are rural and I recall there was an effort to do that. I would think that that might have had an effect of suppressing black turnout. The other thing, it is a rather large district and again [72] when you enlarge the district this I think makes it more difficult to campaign, requires more outlay of funds and so forth. So for candidates who are not well advantaged in those respects there is a disparity.

Q. It was not a case of an unknown black candidate running against a white incumbent, was it?

A. I'm not sure whether Williams was the incumbent or not. I think he was, but I don't recall that point. Henry is known, but Henry is not completely popular among blacks in that area.

Q. So blacks only vote for strong blacks and popular blacks?

A. No, I did not say that's true. I am saying that I think



that where a black candidate is perceived as being a weak candidate or where he has incurred the hostility of part of his potential constituency, I think this likely to depress the support he will get at the polls. That's all I'm saying.

Q. But if we could remove these distinguishing factors about particular blacks, wouldn't you agree that your assumption that blacks vote for blacks is not correct in theory or practice?

A. That's not what I said. I stated that in Mississippi very few whites vote for a black candidate. Therefore, when you create districts in which there is a white [73] majority it is extremely difficult for a black to gain political office. In this century in Mississippi one black has been elected to the State Legislature—one, to the best of my knowledge as far as I've been able to determine.

Q. But if blacks don't more often than not vote for blacks, how would any conceivable single-member district plan for any candidate have black representation?

A. My point in discussing multi-member districts versus single-member districts is that when you have multi-member districts, particularly large multi-member districts, this works to the disadvantage of a black minority. It works to the disadvantage of blacks in general in the sense that it requires access to publicity, it costs more, it requires campaigning over a larger area and I think that in Mississippi blacks as a class are disadvantaged in those respects, given the racial history of the state.

Q. Have you ever held political office?

A. No, I have not.

Q. Have you ever participated in any campaigns—actively participated in any campaigns?

A. Not as an active candidate or participant, no.

Q. So you don't have any down-in-the-hustings knowledge of [74] politics, do you?

A. I've been around the hustings—certainly talked to people engaged at a practical level. As an observer.

Q. You stated that the purpose of these multi-member districts was to avoid having blacks sit in the Legislature. Who told you that?

A. I think it's—I think what I stated was that one of the effects of large multi-member districts was to work against the election of blacks. I think that in Mississippi it's quite clear that the upsurge of interest in multi-member

districts and county consolidation and so forth in the mid-60's was triggered by the fact that blacks had begun to gain access to political process, to vote in large numbers in Mississippi. And you can go back to the debates in the Legislature and you can find statements there which openly indicate what the purpose was.

Q. Whose statements?

A. Members who were in the Legislature at that time.

Q. Which members?

A. It's been some time since I've looked at the materials so I could not at this point name them.

Q. But you're recanting to this extent, on direct you said it was a fact and now you say it's a tendency?

[75] A. To do what?

Q. Of multi-member districts to keep blacks out of the Legislature?

A. I think what I stated was that the interest in multi-member districts which developed in the 1960's was related to the fear by white politicians that blacks might get elected in significant numbers or in any numbers to political office. The other thing that I'm saying is that there is a general tendency where you have multi-member districts—large multi-member districts—to discourage in the context of Mississippi the election of blacks to political office.

Q. Can you name any politicians who voiced such fears?

A. Not without going back and consulting the record.

Q. And you lived here three years while that was going on and you still cannot—

A. No, this occurred in a period before I came into the state.

Q. Well, if it occurred before you came into the state how do you know so much about it?

A. Well, I examined the documents; I examined other materials.

Q. What documents or material?

A. Debates of the Legislature, reports which have been made.

[76] Q. Is the reason that you would prefer that blacks be represented by blacks—is the reason for that that white politicians won't give blacks a fair shake?

A. Well, I don't think that it's a matter of my preferring that blacks be elected by blacks. My concern is that the election system which is used be a system which is impartial,

which does not contain a built-in factor which discriminates against a group, whether it's on race or whether it's on some other basis. My feeling is that in Mississippi multi-member districts do discriminate on the basis of race.

Q. But it is somehow just a gut feeling that you have? You haven't been able to articulate any reason [sic] basis for having that feeling, have you?

A. I think you've got a situation in Mississippi where you've got a black population in the state of 37%. It's not an assimilated population; the black population is heavily concentrated in the eastern part of the state, particularly in the river counties and the next echelon of counties next to the river counties. And you've got 174 legislators and there's been one black legislator elected in this state in the twentieth century. And that suggests to me that you've got a system here which discriminates to the disadvantage of black political [77] candidates.

Q. Did you just state that the balance of the black population is in the eastern part of the state?

A. I stated—no. I stated that the eastern part of the state is the area of the state where the largest percentages of blacks live. In other words, you find that blacks tend to be concentrated quite heavily in the eastern part of the state and you move—. I beg your pardon, in the western part of the state, and you move in from the Mississippi River and you get into the mid-part of the state and over to the extreme eastern part of the state, with the exception of a few counties, and the population in the counties in those areas is predominantly white.

Q. Now you taught at Jackson State, didn't you?

A. That's right.

Q. What year?

A. '69 through '70.

Q. And basically your associations and contacts were in the black community, weren't they?

A. No, not entirely.

Q. But you lived and worked and moved in the black community more than in any other community, didn't you?

A. I wouldn't say that. I worked in the black community, yes.

[78] Q. But the balance of every working day spent at Jackson State College was in an environment that was predominantly black, was it?

A. Only while I was working at Jackson State College. I mean I don't—I work at home, I work at other places.

Q. But didn't you tend to take on and assimilate the views of those black students that you taught and black professors that you worked with?

A. Oh, I don't think so. I think I maintain my own views.

Q. Where else did you work in Mississippi?

A. Other than that, subsequently I worked on a consulting basis for the Lawyers' Committee for Civil Rights Under Law.

Q. While you were living in Jackson?

A. That's correct.

Q. How long did you work for the Lawyers' Committee for Civil Rights?

A. Over a two-year period on an ad hoc basis rather than on a continuing basis.

Q. Was that your complete income during that time?

A. My wife was also employed.

Q. Where was she employed?

A. She was employed at Tougaloo College.

Q. What's the racial make-up of Tougaloo College?

[79] A. The student population is predominantly black. The faculty is mixed—probably roughly 50-50%.

Q. It is likewise true that your wife spent more time in the black community than any other?

A. No, I wouldn't say that. She was involved with whites as well as blacks.

Q. You worked with the Lawyers' Committee for Civil Rights Under Law—your work has been basically devoted to furthering black legal and political interests, has it not?

A. I think it's been a concern rather of attempting to do away with discriminatory barriers which operate to the disadvantage of blacks.

By MR. LADNER: No further questions.

RE-DIRECT EXAMINATION

By MR. PARKER:

Q. What is your race, Mr. Sweeney?

A. I'm white.

Q. What is the predominant race at Shippensburg State College where you're now teaching?

A. White.



Q. Do you have any present connection at all with the Lawyers' Committee for Civil Rights Under Law in a formal capacity?

A. I was asked by the Lawyers' Committee recently to testify [80] in this case, and I'm here in that connection, but other than that, no.

Q. Are you presently employed as a full-time or part-time consultant to the Lawyers' Committee, other than—?

A. Other than in the capacity I've just indicated, no.

Q. The calculation of these floterial districts—counsel on cross examination attempted to characterize these as your own inspirations. Is this your own personal calculation, Mr. Sweeney, or would any informed political scientist or statistician reach the same results in calculating mal-apportionment in the floterial districts of House Bill 1389 and Senate Bill 2452?

A. Well, I believe that—.

Q. I'm speaking of results now.

A. I think so.

Q. Beg your pardon?

A. Could you re-state the question?

Q. With your calculation of population deviations in the floterial districts, or the results of these calculations, are these your own personal results?

A. I calculated them.

Q. Or would any informed political scientist or informed statistician reach the same result in calculating the population deviations in the floterial districts?

[81] A. Following this method they would achieve this result.

Q. Is your method valid?

A. I believe it is.

Q. Did you bring with you, Mr. Sweeney, maps reflecting the outlines of the proposed—your proposed legislative districts for Hinds County?

A. Yes, I did.

Q. Would you hand them to me, please?

A. I am handing you eight maps which indicate the various house and senate plans in my proposal. In addition there is an ED map for Hinds County and there is a precinct map for the greater Jackson area.

Q. Are these maps simply a visual description of the legislative districts which you've described in narrative form in your plan which is Exhibit No. 2?

A. They are a geographic representation of the plan which I've described, yes. The maps are marked with lines representing the described boundaries of the districts.

BY MR. PARKER: I would like to ask that Plan A for the House be marked as Exhibit 3.

Q. Mr. Sweeney, are these maps properly identified?

A. The clerk has identified each of these maps, and I assume she has done it properly.

[82] [WHEREUPON the maps were received and marked as exhibits to the deposition of Mr. Sweeney as follows:

Map—Plan A for the House, marked as Exhibit 3.

Map—Plan A for the Senate, marked as Exhibit 4.

Map—Plan B for the House, marked as Exhibit 5.

Map—Plan B for the Senate, marked as Exhibit 6.

Map—Census Map of Hinds County, marked as Exhibit 7.

Census ED map—Plan A for the House, marked as Exhibit 8.

Census ED map—Plan A for the Senate, marked as Exhibit 9.

Census ED map—Plan B for the House, marked as Exhibit 10.

Census ED map—Plan B for the Senate, marked as Exhibit 11.

City of Jackson Precinct Map—marked as Exhibit 12.

These exhibits are appended to the original of this deposition.]

BY MR. PARKER: Do you have any objection?

BY MR. ALLAIN: Not as exhibits. We will object at the proper time.

[Examination continues:]

Q. Do these maps reflect the boundaries of the legislative districts as described by your plan?

A. Yes.

Q. And are these maps accurate, to the best of your knowledge?

A. Yes.

[83] BY MR. PARKER: I have no further re-direct.

RE-CROSS EXAMINATION BY MR. LADNER:

Q. A moment ago you testified that in effect any political

scientist would validate your method of handling the floter-  
ial districts. Can you in honesty and good conscience speak  
for any political scientist?

A. I did not state that. I stated that one following this  
method would come up with the same computations, and  
that I believed this method was a valid method of computing  
variances for floterial districts.

Q. Oh, so you meant assuming that they would accept  
your method they would come up with the same result?

A. That's right.

BY MR. LADNER: No further questions.

BY MR. PARKER: Nothing further.

[DEPOSITION CONCLUDED.]

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[83(A)] [*Certificate of Deponent Omitted*]

• • • •

[84] [*Certificate of Court Reporter Omitted*]

[Exhibits Omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNOR, ET AL.,  
PLAINTIFFS,  
VS.  
WILLIAM L. WALLER, ET AL.,  
DEFENDANTS.

CIVIL ACTION No.  
3830

DEPOSITION OF DR. JAMES W. LOEWEN

Taken By Plaintiffs

[1]

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REPRESENTING DEFENDANTS.

BE IT REMEMBERED that the Deposition of Dr. James W. Loewen was taken by the plaintiffs in the above styled and numbered cause at 1:30 P.M., in the law office of the Lawyers Committee for Civil Rights Under Law, 233 North Farish Street, before Mrs. Glenda Ferguson, Court Reporter and Notary Public, pursuant to the following stipulation:

It is stipulated that this Deposition is being taken upon notice duly given, pursuant to the Federal Rules of Civil Procedure, and that all formalities for the taking of the Deposition are waived, except the reading and signing by the witness.

It is further stipulated that all objections except as to the form of the question will be reserved until the time of trial of the cause.

[3] DR. JAMES W. LOEWEN

after first having been duly sworn by Mrs. Glenda Ferguson, Notary Public in and for Hinds County, Mississippi, was examined and testified on oath as follows:

DIRECT EXAMINATION

BY MR. PARKER:

Q. State your name and address for the record please, Dr. Loewen.

A. Dr. James W. Loewen, that's L-O-E-W-E-N. My address is 4112 Oak Hill Drive in Jackson.

Q. Where are you currently employed?

A. At Tougaloo College.

Q. In what capacity?

A. I'm Associate Professor of Sociology.

Q. How long have you been employed in the Sociology Department at Tougaloo College?

A. Since 1968.

Q. I'm going to hand you a document which purports to be what Sociologists call a Vita and what lawyers might call a resume and ask if you can identify that?

A. Yes, I prepared it myself.

Q. Does that accurately describe your training, research experience, and teaching experience up to the present time?

A. Yes. Of course, it's in summary form, but yes, it does.

[4] BY MR. PARKER:

I ask that this be admitted as Exhibit 1.

(The said document was marked Exhibit 1, Testimony of Dr. Loewen, and is appended hereto).

EXAMINATION CONTINUING:

Q. How long have you been working in Mississippi, as a Sociologist or as a student of Sociologist [sic], Dr. Loewen?

A. Off and on since 1963, more on than off. I've been in the state virtually every year since '63, and I've lived in the state continuously since '68.

Q. Have you received any educational training in Mississippi?

A. Yes. I was a student for a brief part of my undergraduate experience at Mississippi State University, and as a graduate student, I did a dissertation which involved a considerable amount of research time in Mississippi while a graduate student at Harvard University, and that dissertation has developed into a book, *THE MISSISSIPPI CHINESE: BETWEEN BLACK AND WHITE*.

Q. Could you describe the research work you've done in Mississippi just briefly and the techniques, research techniques, and other techniques that you used in performing that research?

A. O.K. I've done various kinds of research in Political Sociology. For example, I've studied several elections. I've noticed those elections and analyzed them on a county level across the state. I've completed indepth sociological and historical study of the Chinese population in the Delta, [5] which also involved the study of the Delta social structure. I've completed a community study of the town of

Mound Bayou in Bolivar County and in the Bolivar County vicinity, which included a study of Bolivar County politics. Most recently, I and some co-authors have completed a history of Mississippi from the beginning to the present, and even into the future which involved the comprehensive study of the past with politics, economics, social structure and culture. Then, there's been some other minor researches that I've done.

Q. That would be *MISSISSIPPI: CONFLICT AND CHANGE* published in 1974 by Pantheon?

A. Yes.

Q. Your resume also indicates that you've done some work in statistics. Is that right?

A. Yes.

Q. Would you describe briefly the work that you've done in statistics and your training and background in statistics?

A. O.K. As an under-graduate, I had the usual required statistics course related to a Sociology major. In graduate school, I had the required statistics course under, I would say, an internationally known professor, and followed that up with other courses including an independent study course in quantitative methods with Dr. David Armor at Harvard University. I had another course in field methods, and I have taught statistics based on those several courses and on my research development of statistics. I have taught [6] statistics at Millsaps College where I initiated the Statistics and Methods course in the Sociology and Anthropology Department. I've taught it at Tougaloo since 1968. I've taught field methods of social research at Harvard University in the summer of 1969. That would pretty much cover my course work. In terms of research, statistical methods are being utilized both parametric and non-parametric statistics in the book, *MISSISSIPPI: CONFLICT AND CHANGE* in an article on Mississippi politics and social structure which appeared in *THE MISSISSIPPI GEOGRAPHER* and in various of my other articles and books on research.

Q. Have you ever testified in a legal proceeding or court case as an expert witness?

A. Yes, I have.

Q. Would you briefly describe the work and testimony that you performed in court cases as an expert witness?

A. Well, there have been several. I won't cover them all.

For example, in Wilkinson County in about, this would be in early 1969, I testified as a statistician in a case involving jury selection, and I testified as to the statistical likelihood that a given racial ratio would attain on juries and on venires if the juries and venires had been drawn by a random or chance method from an underlying population of registered voters. I have testified on those grounds in a couple of other cases.

Q. Involving juries?

A. Involving jury selection. I've testified as a Political [7] Sociologist in the case involving . . . I must say I'm not sure of the legal names involved in these cases, but the case involving the Democratic Party and what part of the Democratic Party should be recognized as the agent of the National Democratic Party.

Q. Is that Riddell VS. The National Democratic Party?

A. Yes. In that case I testified on some of the same material that I've brought along today, as to voting behavior patterns and party behavior in Mississippi politics. I've testified in Hinds County with regard to jury selection. I've testified . . . well, just a couple of those.

Q. Did you testify in a case involving a challenge to at-large elections in municipalities called Stewart VS. Waller?

A. Yes.

Q. Was your deposition taken?

A. My deposition was taken.

Q. Did you testify in the Hinds County Re-Districting case called Kirksey VS. Hinds County Board of Supervisors?

A. Yes.

Q. In all of those cases, you testified as an expert witness?

A. Yes.

Q. Could you describe for us please, define for us, the statistical term Product-Mono Correlation?

[8] A. O.K. The product-mono correlation coefficient is a technique which sums up in one number whether or not there is a statistical relationship between two variables.

Q. What do you mean by variable?

A. Well, o.k. If, for example, we have a variable like, let's say, the vote for Evers in 1971 when he was running against Waller, that vote is a variable, and if we look at a given unit and of course the most convenient unit would be coun-



ties. There are 82 counties, that's quite a few, that's enough to concern ourselves with. If we look at a given unit, then a given county may have an eleven percent vote for Evers or a thirty-eight percent vote or whatever. That variable vote for Evers in percentage form can vary in accord with some other variable perhaps, and if we look at it, say in contrast to Black percentage of the population, then we have another variable. The percentage Black of the population varies from three or four percent up in the northeastern part of the state to well above seventy percent in certain counties in the Delta or along the Mississippi River. Now the correlation coefficient allows us to sum up the relationship between the two variables. If Blacks, for example, tend to be voting for Evers, then in counties which have a high Black population, we would expect a proportionately higher Evers vote. In counties with a low Black population, we would expect a low or at least in relation to the other counties a lower proportionately [9] Waller, excuse me, Evers vote. The correlation coefficient can go from minus one through zero to plus one.

Q. O.K. What would a minus 1.0 correlation coefficient indicate?

A. Minus 1.0 would be a perfect correlation in a negative direction. To continue with my example, that would mean then without exception as you get a higher Black county in terms of population, you get a lower Evers vote, perfectly negative. A plus one correlation would be a perfect correlation that would be positive without exception as you get a county that's higher in Black vote, I mean Black population, you'd be having a county higher in Evers vote, to continue my example. A correlation coefficient of around zero, let's say minus 1.0, excuse me, minus 1.1 or minus .05 or plus .1, something like that or zero itself. A correlation coefficient around zero means that there is no or very little relationship between the two variables so that as the county would go up in percent black you wouldn't be able to make any particular association of what was happening with the votes.

Q. I asked you to draw a scale for us showing a scale of the product-mono correlation coefficient indicating which ones show a significant relationship and which ones would not.

A. O.K. This sketching is rough, I didn't use a ruler or anything. I indicate minus 1.0 on the left, plus 1.0 on the

right. The correlation coefficient which is called R, the small r, is going to equal some number. It can never be more than 1.0, because [10] 1.0 is perfect. It can never be less than 1.0 because minus 1.0 is perfect but in an inverse or negative direction. If the correlation coefficient, well, it depends on how many cases you haven't solved, but with 82 counties and Social Science being what it is, if the correlation coefficient is in the neighborhood of .5 or perhaps .4 or .6, around in there, then a Social Scientist would tend to say there is a relationship between those variables. In fact, he would more than tend to say it, he would say there is a relationship between those variables, and he could perform further statistical tests to prove it, that that relationship couldn't possibly be due to chance with numbers like 82 counties involved. If the correlation coefficient is in the neighborhood of say .7, .8, .9, it is a very, very strong relationship and rather uncommon in Social Science. It doesn't happen all that often and in that case the Social Scientist or Political Scientist would say there is a very strong relationship between the two variables.

Q. Would that be in either direction?

A. Yes. That would either be minus .8, minus .9, minus .7 or if it were plus .8, plus .9, in that area.

[11] BY MR. PARKER:

I ask that this Diagram be admitted as Exhibit 2.

(The said Diagram was marked Exhibit 2, Testimony of Dr. Loewen, and is appended hereto).

EXAMINATION CONTINUING:

Q. Would you give us the complete technical term that's used to describe this product-mono correlation coefficient in this case?

A. Yes. It's called the Pearson, that's P-E-A-R-S-O-N, the Pearson Product-Mono Correlation Coefficient.

Q. Can you tell me whether or not this is a standard technique used by Sociologists and Statisticians in measuring correlation between variables?

A. Yes. It's probably the most common single measurement of an association between two variables.

Q. Have you made any studies of racial voting patterns in Mississippi?

A. Yes.

Q. For what purpose did you make these studies?

A. Well, partly, I was just intellectually curious. I look into voting studies usually every time in the week or two after an election in November. I went a little further into it on one occasion relating to some of the material I brought with me because I thought I could develop it into an article for *THE MISSISSIPPI GEOGRAPHER* or for some [12] journal and, in fact, I did do that. Also, on other occasions I've studied voting patterns and used other publications.

Q. With regard to the major study that you've done, what data have you used?

A. I got data from the Secretary of State's office, by county, as to the voting behavior, the numbers, the actual numbers of votes for Evers and Waller in the 1971 gubernatorial election and for Humphrey VS. Nixon in the 1968 presidential election. That's what I brought with me today. Then, in my analysis I also looked at the percent Black in the population and those figures I got from the United States census, 1970.

Q. Is the voting date [sic] the same voting date [sic] that appears in the Blue Book published by the Secretary of State?

A. Yes. The Blue Book came out later, of course, but I checked a couple of the counties just to be sure the data was the same and it was, as I would expect because it was in the Secretary of State's office.

Q. Have you drawn and compiled data on maps showing the study that you performed?

A. Yes, I have.

Q. Could you show us Map 1?

A. Yes. I'll keep the original and give you the copy (gives map).

[13] Q. Is Map 1 a map you prepared using data that you described to us?

A. Yes, it is. It shows the Black population in 1970 according to the 1970 census population, and I have shaded it into five shade categories. Would you like for me to describe how I did that?

Q. Yes.

A. I used the principle called Equal N Shading which is the shading principle least biased. In fact, it essentially cannot be biased. That is, I arranged the counties in order from the least Black to the most Black and I then picked

my percentage cutting points for the categories so that about the same number of counties would be shaded in each category. In other words, there's approximately one-fifth of 82 or approximately 16 counties that are shaded black, approximately 16 counties that are shaded striped, that are shaded gray, dotted and white, and that way there is no way that I could personally bias the results in terms of what the map looked like. I'm giving the same weight to each shade category. So, in other words, I then determined what color each category should have in some rational manner. In this case, the more heavily shaded the county, the higher the Black population.

Q. These shading categories show the percentage of the total population that's Black?

[14] A. That's right. So, for example, Desoto County up in the upper lefthand corner is somewhere between 33 and 43 percent Black.

Q. And the counties that appear all black on this map are 60% Black and over?

A. Right.

Q. Is this a copy of Map 1?

A. Yes, it is.

Q. Do you want to keep the originals?

A. Yes.

BY MR. PARKER:

I ask that Map 1 be admitted as Exhibit 3.

(The said Map 1 was marked Exhibit 3, Testimony of Dr. Loewen, and is appended hereto).

EXAMINATION CONTINUING:

Q. Have you prepared Map 2?

A. Yes, I have. (gives map)

Q. Is this a copy?

A. Yes, it is.

Q. Did you prepare Map 2?

A. Yes, I prepared Map 2.

BY MR. PARKER:

I ask that Map 2 be admitted as Exhibit 4, Testimony of Dr. Loewen, and is appended hereto.

[15] Q. Do you have a copy of Map 2 before you?

A. Yes.



Q. Would you describe what is on Map 2?

A. Map 2 is entitled *Percentage For Evers, 1971*. Again, in terms of the shading, I used the same principle, the same categories from white to black with stripes and so on. Equal unshading meant, again, that I would have approximately 16 counties shaded white, approximately 16 counties shaded dotted and so on, again, so that each category gets the same weight on the map. Just for example, you can look at Desoto County and see that it is between 11 and 18 percent for Evers in the 1971 election. The counties shaded black were the heaviest counties for Evers and they range from 34% on up.

Q. This is the percentage total county vote for Evers in the 1971 General Election?

A. That's correct.

Q. Just so that we can get the Map Exhibits in, have you prepared a third map?

A. Yes, Map 3.

Q. Is this a copy of Map 3 that you've made?

A. Yes, it is.

Q. Did you prepare Map 3?

[16] A. I prepared it.

Q. Using data from election returns?

A. That's right.

BY MR. PARKER:

I ask that Map 3 be admitted as Exhibit 5, Testimony of Dr. Loewen, and is appended hereto.)

EXAMINATION CONTINUING:

Q. Did you use the same shading principles as you used in the other maps?

A. Yes, I did. The colors or the shadings are the same and I used the equal N principle again and this map shows percentage for Humphrey in the presidential race of 1968.

Q. What process or technique did you use to establish the correlation between the variables given on Map 1, Map 2 and Map 3?

A. First of all, of course, I just visually looked at the maps, and this is called ecological analysis, and it gives you a chance to see visually what's going on. In addition to the percentage for each county, you can see the actual physical or aerial pattern of votes over the states, and as you

look at the three maps you notice that they look very, very similar. In fact, this is quite remarkably similar. [17] I can remember mappings of Mississippi that V.O.C. did in southern politics in order to show similarity and often where they show similarity, they are not as close a similarity as these maps. For example, look at East Mississippi and you see that Noxubee County is shaded black in every case, that the county directly above it is shaded gray or close to gray, in one case dotted. Clay County is shaded striped in every case. There's just a remarkable similarity, and when there isn't a similarity . . . when there isn't an identity the counties are out of order only by one shade category. For example, you might note that Marshall County on the first map is shaded black and the second map is shaded striped and the third map is shaded black, and then you realize the striped is the closest thing to black. So, even when there seems to be a difference, it is a slight difference. The maps simply look very, very similar. I then went ahead and based on the data itself which I have in the form of a table . . .

Q. Could we mark that as Exhibit 6. Is this the table you are referring to?

A. Yes.

Q. Did you prepare this table?

A. Yes.

[18] BY MR. PARKER:

I ask that the Table prepared by Dr. Loewen be admitted as Exhibit 6.

(The said Table was marked Exhibit 6, Testimony of Dr. Loewen, and is appended hereto).

EXAMINATION CONTINUING:

A. Based on the actual numbers in the table. . . .

Q. Tell us what the Table indicated on Exhibit 6 is.

A. O.K. It is simply a listing of the data for the three variables in percentage form. Again, the percent Black comes from the 1970 census. The percent Humphrey and percent Evers comes from the election returns as obtained from the Secretary of State's Office.

Q. You've simply computed the percentages in each case?

A. Right. In other words, I took the percent Black, the Adams County population for non-white and divided by

the total population. It is true, of course, in Mississippi that the overwhelming number of non-whites as listed in the census is Black so I went ahead and used the term Black even though there are a few others listed.

Q. How did you use this data in Exhibit 6?

A. First of all, this data is the data that was mapped on the three maps. Secondly, this data was the data used for the correlation coefficient. On the bottom of Map 1, I listed the two correlations that Map 1 has with the other two maps. [19] Map 1 correlates with Map 2.

Q. Map 2 is what?

A. Map 1 is Black population and Map 2 is percentage for Evers, and the correlation between those two maps is in the Pearson Product-Mono Correlation Coefficient. That correlation coefficient is .93.

Q. How statistically significant, if at all, is that correlation?

A. That's very, very high. Social Scientists rarely find correlation coefficients that high. So, that means, in other words, if you knew the Black population in 1970, you could predict how a county would come out compared to other counties in 1971 in its vote for Evers with very high accuracy. The relationship between those two variables is very high. It's almost perfect. After all, it can't get much higher than .93. Of course, that perfection or near perfection is shown by the maps visually, but it is shown by a statistical number by the correlation coefficient .93. Then I went on to compute the same correlation coefficient between Map 1 and Map 3. Map 1 being again Black population, Map 3 being percentage for Humphrey. We find an almost equally high correlation coefficient here showing that there is a very great association between Black population in a county and percentage of the vote for Humphrey, in 1968.

[20] Q. But not as high as the vote for Evers?

A. Not quite as high a correlation, but you have to realize that .93 and .91 are virtually as high. After all, we're talking about a correlation coefficient which would be considered very high as long as it was considered above .70 or .80, in that area.

Q. What is the significance of the use of the Evers vote? Why did you select the vote for Evers?

A. Well, I was interested to see whether or not there was

what we would call racially polarized voting in Mississippi. Of course, as everyone knows who reads the newspaper, Charles Evers in 1971 was the first major state-wide contest by a Black candidate since 1890.

Q. Dr. Loewen, is there a formula or computer process that you used to compare these percentages to arrive at the correlation coefficient?

A. I actually did it on a calculator, not on a computer. Yes, there is a formula. It's a fairly elaborate formula. I haven't mentioned the third correlation coefficient. Finally, just to be complete about it, I checked the correlation between Map 2 and Map 3. That's between the percentage for Evers in 1971 and the percentage for Humphrey in 1968. I found that that correlation coefficient also was very high, .94. That's the only correlation coefficient that you can do. If you want to look at Map 3 and compare it to Map 1, why it's the same correlation as that indicated between Map 1 and Map 3.

[21] Q. Is this a statistical technique or method that any professional expert statistician would use in analyzing this statement?

A. Yes, it is.

Q. You were describing the significance of the Evers race.

A. Right, and I was saying if you wanted to see whether or not Mississippi voting was racially polarized, it would be a good race to pick, because it was the most important and, in fact, the first real state-wide campaign by a Black candidate for office, for a state-wide office, since the days of reconstruction, in the previous century, so when I examined it I concluded, of course, from these maps and from the correlation coefficient that there is or was in that election racial voting, that in light counties, the vote for Evers is miniscule and Whites were voting for Waller with a few votes for Brady who was a minor third candidate and in the counties with a higher Black population, there was a much higher vote for Evers which correlated perfectly, almost perfectly.

Q. What is the significance of using the Humphrey campaign?

A. I wanted to determine if the National Democrats as indicated by their candidate in 1968 were getting support on racial lines, and again the correlation in this case, Map 1 and Map 3, .91, is again is very, very high so we conclude



that the National Democratic group on the whole was a Black vote.

Q. Was Humphrey supported by a racial group in Mississippi?

A. He was supported by the Loyalist Democrats. Some people would argue that is a racial group, I wouldn't.

[22] Racially speaking, was Humphrey supported by any particular group of voters?

A. Yes, by Black voters.

Q. Humphrey was the presidential candidate in 1968 favored by the Black voters?

A. Yes.

Q. In a sense, he was the choice of the Black voters?

A. That's correct.

Q. Evers was the gubernatorial choice by Blacks?

A. That's correct.

Q. Is your study affected or strengthened or weakened in any way by using figures from both 1968 and 1971?

A. It's strengthened in that it shows the same pattern as persisting in time in the correlation between '68 and '71 is the highest of all, .94. Incidentally, I didn't bring it with me but I have done a similar map for the McGovern vote in 1972, and it shows the same pattern and an equally high, or I don't remember the exact number, but it is around .9 correlation coefficient.

Q. You've given us in technical language the correlation coefficients showing the relationship among the three variables. Can you tell us in less technical language what conclusions you've drawn from this analysis?

A. My conclusion is that Blacks are voting for either a Black candidate or a candidate they believe to be identified with their interests and the Whites are doing the same thing, voting [23] for either a White candidate or a candidate they believe to be identified with their interests. Of course, I'm not stating that every Black voted a certain way or that every White voted a certain way, but there is a tremendous relationship between votes and race. In other words, the state is voting along racial lines at the present time.

Q. Does this include Whites as well as Blacks?

A. Yes. In fact, some of these counties . . . we have no counties that are 90 and 95 percent Black. We do have counties that are 90 or 95 percent White, and when you look into the overwhelmingly White counties you see that they fit into the pattern perfectly. In other words, Whites are

very definitely voting for White candidates or voting against or for candidates other than Hubert Humphrey or other than McGovern, and other than Charles Evers, of course.

Q. What you're saying is that in Mississippi, there is racial block voting by both Whites and Blacks?

A. That's correct.

Q. Is this constant or inconstant of the time?

A. Ever since the 1965 Voting Rights Act began to take effect it's been constant. There was no or very little Black voting . . . no significant Black voting before 1965. But after the Voting Rights Act increased the Black vote, then you began to see this kind of behavior. It's been constant in every election I've looked at since '67.

[24] Q. From this data can you tell us whether or not Black candidates and voters would be able to or likely to form effective political coalition with White candidates or White voters in the support of Black candidates?

A. It looks doubtful because the vote seems to be as we've been saying polarized on racial lines. It doesn't seem likely that a candidate could easily represent a significant group of Blacks and a significant group of Whites at the same time and thus win a majority. It seems as if the candidate who . . . let's say if we had a White candidate who was favored by Blacks, as was Humphrey, such a candidate would draw a minuscule White vote as did Humphrey. Or, it seems as if we have a candidate who was Black, as Evers, then that candidate would draw a minuscule White vote, as he did.

Q. Have you done studies, Dr. Loewen, on the relationship in Mississippi between total population figures and voting age population figures?

A. Yes, I have.

Q. For what counties have you performed that study?

A. Several. I don't remember them all. I brought Hinds County. I've also done this kind of analysis in Madison County and I believe I've done it in the state as a whole. The only county I brought was Hinds County.

Q. This next exhibit is part of the record, Kirksey VS. Hinds County Board of Supervisors. These are the figures given in answers to the interrogatories by the Board of Supervisors [25] indicating the racial composition in terms of total population of the 1969 Plan Districts and the 1973 Plan Districts. This is part of the court record and is an exhibit in the case of Henry J. Kirksey VS. The Board of

Supervisors of Hinds County, Mississippi. I'd like to hand you a copy of that and ask that it be marked as an exhibit to your deposition.

BY MR. PARKER:

I ask that Plan Districts for 1969 and 1973 be admitted as Exhibit 7.

(The said Plan Districts for 1969 and 1973 was marked Exhibit 7, Testimony of Dr. Loewen, and is appended hereto.)

EXAMINATION CONTINUING:

Q. I believe you testified in the Hinds County case . . . the Hinds County Redistricting case, Dr. Loewen?

A. Yes.

Q. Based on the total population figures did I in that case ask you to do a calculation of the voting age population, White and Black, for each of the proposed districts?

A. Yes, you did.

Q. I'm going to hand you this document and ask if you can identify that?

A. Yes, that's the calculation that I performed. This is my work.

Q. Did you type it?

A. Yes, I typed it.

[26] BY MR. PARKER:

I ask that the Voting Age Population be admitted as Exhibit 8.

(The said Voting Age Population was marked Exhibit 8, Testimony of Dr. Loewen, and is appended hereto.)

EXAMINATION CONTINUING:

Q. According to the census figures, ten percent of the Black population in the state of Mississippi lives in Hinds County and perhaps an equivalent percentage of the White population in the state of Mississippi lives in Hinds County. What did you find in your analysis of the census statistics on the relationship between total population by race and voting age population by race for Hinds County, Mississippi?

A. By supervisor's district, for example, by proposed district we noticed that, according to this exhibit you handed me, the Black. . . .

Q. Could you identify that; what number is that?

A. Exhibit 7. According to Exhibit 7, in District 1 and this is data supplied by the Supervisors from the United States Bureau of Census, in District 1 the non-white percentage is 29.5%. When I calculated the Voting Age Population as shown by Exhibit 8 for District 1, the Voting Age Population was 25.3% Black. Thus, we see the overall population ratio of 29.5% when you look at just voting age population shrinks to 25.3%.

[27] Q. Similarly in District 2 we have a Black population of 53.4% which would appear to be a majority. When you then look at the voting age population that Black population shrinks as a percentage as a whole to 48.0%. District 3, the same thing happens. You go from 27.7% to 23.6%. District 4, you go from 32.0% down to 27.5%. And, finally, District 5, it appears there is a Black majority. In District 5, the figures are 54.0% non-White in the entire population. When you look at the voting age population, those age 18 and over, the percentage non-White drops to 48.6%.

Q. Did you compare the total county population according to census figures the percentage of the total white county population that is of voting age and the black county population that is of voting age.

A. Yes.

Q. What did you find?

A. In the white population 67.9% is of voting age. In the black population, 54.8% is of voting age.

Q. So there is a lower percentage of black voting age persons in the total black population?

A. That's correct.

Q. Let me hand you Exhibit 9 and ask if you can identify that?

A. Yes, I prepared these. This is my work, personally. These are called Age and Sex Population Pyramids and there is one for the United States as a whole, one for the Black population [28] of Hinds County and another for the White population of Hinds County.

BY MR. PARKER:

I ask that the Age & Sex Population Pyramids be admitted as Exhibit 9.

(The said Pyramids exhibit was marked Exhibit 9, Testimony of Dr. Loewen, and is appended hereto.)



## EXAMINATION CONTINUING:

Q. What is the source of data for these Age and Sex Population Pyramids?

A. All of this data comes directly from the 1970 Census of the population.

Q. Did you prepare these statements yourself?

A. Yes.

Q. Can you tell us whether or not these tables provide an explanation for your finding that there is a smaller percentage of voting age persons in the total Black population?

A. Yes, they do.

Q. Could you give us that explanation?

A. First of all, let me describe what the tables are, and how they are constructed, and we can look at the United States one on the left for that description. Females are placed on the left, males are placed on the right. The scale is to be read in percentage to the total population. [29] This means, in other words, that I took the number of females under the age of 5 in the United States and divided by the population of the United States to find out what percentage of the United States was composed of females under the age of 5. I found that percentage to be slightly greater than 4%. I did the same thing for males and then I did the same thing for other age groups. If the United States had a steady birth rate, you would expect this graph to be in the form of a pyramid and that's why it's called Age & Sex Population Pyramid. This is a standard demographic technique used by sociologists or demographers. There are . . . this graph does in fact form something of a study pyramid with three exceptions. I'd like briefly to describe those exceptions. The first is that at the very top the bar is longer than you would expect. It does not reach a point and, of course, that's because the top bar does not represent a five-year period. All the other bars do represent five-year periods. The top bar because there's fewer and fewer people as you go from 75 to 79, 80 to 84 and so on, those people have been lumped together in one bar and thus the top bar is slightly longer because of the fact that it simply represents a number of categories lumped together. Otherwise, it's no real exception. Secondly, there's what we might call a wasp waist or an indentation in the area of 30 to 34 and 35 to 39. This represents the drastic decline in the birth rate that took place 30 to 39 years before 1970,

namely during the Great Depression. [30] So that's an indentation caused by the decline in birth rates because of the particular event. Finally, down at the bottom in the two bars under 10, particularly the bar under 5 we see again an indentation there and that's because, as everyone knows, the birth rate in the United States has been in another drastic decline over the past six, seven or eight years and that decline is showing in a scarcity of children, under 5, and 5 to 9. Otherwise, the graph does have to go smoothly towards the point at the top.

Q. How does the Age & Sex Population Pyramid for the United States compare with whites in Hinds County?

A. The Hinds County white pyramid is pretty similar. You can just see that visually. It's similar to the United States pyramid as a whole. It doesn't show any drastic differences. That shows in terms of migration which lies behind this table that the Hinds County white population has not been seriously affected by in-migration or out-migration. Whatever migration there is, it is roughly balanced. There is no age group particularly that is leaving the county.

Q. The percentage of whites, male and female, in the population say over age 19 is generally the same as that for the United States?

A. Right.

Q. How does the Age & Sex Population Pyramid for the United States and for whites in Hinds County compare with the age and sex population pyramid for blacks in Hinds County?

[31] A. Immediately looking upon it you can see that the bars are much longer down at the bottom under the age of 19. There is a much higher percentage of children than you would expect. When you look directly above, you see that between 15 and 19 years old from that graph or bar to the next highest bar there is a quite large indentation, much larger than any indentation on the United States graph or on the Hinds County White graph. That is to say then there is a large number of people who five years earlier had been in the county age 15 to 19, but by the time the census came around in 1970 and they would have been age 20 to 24 they had left the county. This is particularly true on the male side, and you notice that the male indentation is even greater than the female indentation. Then, if you compare age 20

to 24 graph or bar with the next bar up, 25 to 29, you see another jump, another decrease. So again, a large number of people in this age group are leaving the county. Finally, when you look in the area, say age 25 to 29, and on up to perhaps 50 to 54, you see very, very few people. The bars are just systematically shorter, particularly on the male side, than they are on the United States Pyramid or Hinds County white population pyramid.

[32] Q. As a Sociologist who has studied social structure and history in Mississippi, what is the explanation for this substantial decrease in the Black population above the age of 15 to 19?

A. There has been a large migration of Black Mississippians, in this case, Black Hinds Countians, to the north to places like Chicago, smaller towns in Illinois, St. Louis, to some extent to Memphis, but primarily to the North. That migration began a long time ago around 1919 or 1920. It is continuing. Census experts predicted it would slow down during the 1970's, but they were surprised during the late 60's and 70's. They were surprised by the 1970 census which showed that the migration was continuing. This migration is particularly of young adults, especially of males, but to a considerable extent, also of females. It is happening, due to the best analysis, due to a lack of economic opportunity and a lack of social rights or social opportunity. People don't usually leave unless they feel the area they're going to offers them more opportunity than the area they are in. That's what is apparently happening. I might add that although these are for Hinds County, the age and sex population pyramid for Blacks in most other counties would be even more distorted and show even a higher rate of migration.

Q. How typical is the Hinds County example?

A. If anything, it under-represents the migration that's going on. I do have the Madison County charts with me.

[33] BY MR. PARKER:

I ask that this Chart be marked Exhibit 10.

(The said Chart was marked Exhibit 10, Testimony of Dr. Loewen, and is appended hereto.)

EXAMINATION CONTINUING:

Q. Let me have your Exhibit 10 and ask if you can identify that?

A. Yes, this is my work. I prepared these and these are the Age and Sex Population Pyramids for Blacks in Madison County and again for the United States.

Q. Did you use the same technique in preparing these Age & Sex Population Pyramids as you did in the Hinds County case?

A. Yes.

Q. Can you describe for us the significance of the shape of the Madison County Age & Sex Population Pyramid for Blacks?

A. Yes. Again you see a remarkable number of children. The bars for under 5, 5 to 9 and 10 to 14, and 15 to 19 are very long. They are longer than the corresponding bars for the United States population. Then, when you move from the 15 to 19 year olds, to the 20 to 24 year olds, you see a remarkable drop. On the male side, for example, the bar for 15 to 19 compared to 20 to 24 . . . when you move from 15 to 19, to 20 to 24 the bars are cut almost in half, and when you move up one more notch to the age 25 to 29 the bar is again almost cut in half showing a tremendous migration of young adults, particularly young male adults. The shortage of young male adults is evident from 25 to 29 [34] on up to 55 or so. The bars for young adults, particularly males, but also females, from age 25 to 55, are much shorter than the corresponding bars for the United States population as a whole.

Q. On the basis of this analysis, can you tell me whether if we were to measure Black voting strength for voting age Blacks total population figures would be a reliable method to use or should other methods be used in measuring Black voting strength?

A. Total population would be a bad method because the Black population in Mississippi counties is of very different age groups than the white population. Just as we saw in the Hinds County case, total population might show Blacks to be say 50% when, in fact, of the voting age population Blacks might be 45% and might even be as low as 40%, depending on the county.

Q. In the Hinds County case, Dr. Loewen, did you also analyze the voting age population by race and the number of persons registered to vote by this?

A. Yes.

Q. What statistics did you use?



A. The voting age population was based on the census. The registered voters by race was based on estimates from the Institute of Politics in Mississippi.

Q. Why didn't you use official voter registration statistics by race from the Circuit Clerk's Office or from the Secretary of State's office?

[35] A. Well, I'm not aware if they are available. The last time I attempted to inquire about registration by race, the Hinds County officials told me that they do not keep records or make records available of voter registration by race. The Secretary of State certainly doesn't have any for each county.

Q. Do you know of any other source of voter registration statistics by race other than the Institute of Politics at Millsaps College?

A. No. The Institute of Politics' figures are those commonly used by commentators or Political Scientists in Mississippi.

Q. Do you have those statistics with you?

A. Yes, I do. I have calculated the estimated registration in Hinds County for each of the new proposed Supervisor's Districts.

Q. Is this a copy?

A. Yes, that is a copy.

BY MR. PARKER:

I ask that the Voting Age Population, Supervisor's Districts, Hinds County, be admitted as Exhibit 11.

(The said V.A.P. was marked Exhibit 11, Testimony of Dr. Loewen, and is appended hereto.)

[36] EXAMINATION CONTINUING:

Q. What does Exhibit 11 show in terms of relationship in voting age population and registration for Hinds County proposed Supervisor's Districts?

A. It will be remembered that this is the same exhibit as Exhibit 8, I believe. It is the same as Exhibit 8 with the addition of the estimated registration figures. To calculate these, I simply used the Institute of Politics' figures for estimated white registration and black registration in Hinds County and applied them to the voting age population of the county. When I did this, I found by Supervisor's Districts, proposed Supervisor's Districts, in District 1, for in-

stance, where the black population in the voting age was 25.3%, the estimated black registered voters was 20.7% of the whole. Similarly, in District 2 where blacks made up 48% of the total voting age population, they make up only an estimated 41.7% of the whole registration. In District 3, the 23.6% of the population—voting age population—becomes only 19.3% of the registered voters. District 4, the 27.5% of the registered voters . . . excuse me, the 27.5% of the voting age population becomes only 22.7% of the registered voters. In District 5 where you had a 48.6% black population ratio, among voting age population, we find that becomes 42.2% of the registered voters being black, so there's a drop of somewhere in the neighborhood of 4, 5, 6, 7 percent.

[37] Q. Here's Exhibit 7 which is the total population for each of the proposed districts as based on United States Census data. You have the estimated voter registration by race. In terms of percentage, what did you find to be the gap or disparity between total population and registration. How many percentage points on the average?

A. It varied from about 10% to slightly higher, throughout the state.

Q. Ten percentage points?

A. Yes. In District 5, for example, where you have a 54% black population in the total population, you have only 42.2% in the registered voters. That would be a drop of about 12%. I might add that in other counties you get a similar drop depending on the black ratio and population as a whole. You could always assume that the percentage of registered voters who are black will be somewhere between 5 and 15 percent below the overall population that's black.

Q. Let me hand you this document which is entitled *IOP . . . In the Public Interest*. Are these the voter registration figures that you used in your calculations?

A. Just a minute. In order for me to conclude that, I'm going to have to do a multiplication. It will take me a minute. Yes, they are. The figures come up with the same figures that I used, so they are from this . . . I remember this publication, but I just wanted to check it [38] by doing a calculation.

Q. I ask that this be marked as an exhibit to your deposition.

BY MR. PARKER:

I ask that the I.O.P. be admitted as Exhibit 12.

(The said I.O.P. was marked Exhibit 12, Testimony of Dr. Loewen, and is appended hereto.)

EXAMINATION CONTINUING:

Q. Let me hand you another document which is entitled *Figure 7, White and Black Incomes, 1970*. Can you identify that?

A. Yes. I prepared this chart before on numerous occasions and this looks like a preparation of mine for the article. It's certainly my work. I prepared it for classes and for publication.

Q. Let me ask you to compare the figure on page 292 of your book with the exhibit which I just handed you.

A. Yes. They are the same. That's a preparation I did for the publication *Mississippi Conflict*.

BY MR. PARKER:

I ask that Figure 7, White & Black Incomes, 1970, be admitted as Exhibit 13.

(The said Figure 7 was marked Exhibit 13, Testimony of Dr. Loewen, and is appended hereto.)

[39] EXAMINATION CONTINUING:

Q. Let me hand you Exhibit 13, Dr. Loewen, and ask you to identify it and tell us what it is.

A. That's a simple bar graph showing the relationship of black incomes and white incomes, according to the data given by the United States Census of Population for 1970. Black families are shown by a black line which in the Xeroxing, comes out kind of black, and the white families are shown by white bars. For example, if we look at the category below \$1000, we find, if you read it correctly, that about 14% of all black families, somewhere around 13 to 14 percent, have incomes as a family below \$1000. Among whites, in the neighborhood of 4% have incomes below \$1000. Similarly, as we get over in the category of \$10,000, there we see that of all black families, approximately 6% have incomes over \$10,000. Of all white families, 31 or 32 percent have incomes over \$10,000.

Q. That's for Mississippi as a whole?

A. That's for the state of Mississippi.

Q. What conclusions or generalizations can you draw from the statistics that you prepared and illustrated on this graph?

A. There's quite a striking difference. If you attempted, for example, to....

Q. Let me stop you there. What is a striking difference?

[40] A. There's a striking difference in the black incomes, the distribution of black incomes, and the distribution of white incomes. Black families are strikingly poorer. If you attempted to draw a line just covering the points at the top of each black bar, this line would show that the bulk of the black population is making less than \$4000 a year family income. For example, 13% are below a thousand dollars. I know that 20% are between one thousand dollars and \$1999. Another perhaps 16% are in the \$2000 bracket. So, you can readily see that half, well over half of the black population, is making less than \$4000. On the other hand the bulk of the white population is somewhere else on this graph. It's over on the right hand end, so if you attempted to draw a line connecting the tops of the white bars, that line would rise systematically as you went towards the richer income categories, so that a majority of the white population is making more than \$7000. There is a dramatic difference then in the incomes between black families in Mississippi and white families. Of course, there is some overlap. That's also shown. But, on the whole, there is a tremendous difference.

Q. Is this a bar graph that you prepared?

A. Yes.

Q. Did you prepare this for this lawsuit or for some other purpose?

[41] A. No. I have used it in class and to show how to make bar graphs when preparing statistics. I have prepared it for publication. I did not prepare it for today.

Q. I ask that this be admitted as an exhibit to this deposition.

(Exhibit 13 already entered as part of this deposition, page 38.)

EXAMINATION CONTINUING:

Q. Have you done a more detailed analysis of the social



and economic position of blacks and whites in Hinds County, Mississippi?

A. Yes, I have.

Q. Let me hand you a document and see if you can identify that.

A. Yes. That's a two-page comparison of some basic social and economic data coming from the 1970 Census by race for Hinds County. I prepared it and I typed it.

Q. Was this document made an exhibit in your testimony Kirksey VS. Hinds County Board of Supervisors and admitted as evidence in that case?

A. Yes, it was.

Q. I ask that this be marked and made an exhibit.

BY MR. PARKER:

I ask that the Comparison of Basic Socioeconomic Position be admitted as Exhibit 14.

(The said Comparison was marked Exhibit 14, Testimony of Dr. Loewen, and is appended hereto.)

[42] EXAMINATION CONTINUING:

Q. I don't think we need to ask you to narrate what that data shows. Let me ask you some questions about Madison County, Dr. Loewen. Would you describe for us your experience in politics and political organizing and voter registration and any studies you've done in Madison County and your knowledge of the present situation in Madison County?

A. I have participated as a poll watcher and as an organizer and trainer of poll watchers in Madison County on three separate occasions. I have also assisted in campaign organizing on one occasion. I have done studies of results. For example, in the election of 1972 which was for election commissioners, among other things, we had poll watchers who were reporting and keeping track of the number of people by race at every pollman machine. Madison County uses voting machines. At every voting machine, at every polling place in the county. We therefore knew how many blacks had voted on each machine, how many whites had voted on each machine. We also kept track, when the votes were counted, of how many votes were cast on that machine for which candidate. I did an analysis of that election. Would you like for me to pursue that?

Q. Yes. What were the results of that study?

A. We found that on machines and in precincts that, even

going [43] down to a machine level, on machines where any whites had voted or predominantly whites had voted that the white candidates for election commissioner of which there were five received about as many votes as there were white people going to the machine. For those machines or polling places where there were only white people going to the machines we therefore were able to prove or show that white people were voting virtually exclusively for white candidates. There would be no more than two or three votes for anyone else. On machines that had overwhelmingly or predominantly black voters, we found that black candidates got the majority of the votes. On machines where blacks were the majority of people entering the polling machine, entering the booth, we found that black candidates got a majority of the votes. There was some slight amount of black cross-over for white candidates. There was virtually no white cross-over for black candidates.

Q. Does this data tend to confirm or contradict your county-wide study of black vote?

A. It confirms it and it nails it down by looking at individual precincts and individual machines. The Madison County, like the state, was voting along racial lines.

Q. Are there any black population concentrations in Madison County?

A. Yes.

Q. Where does the majority of the blacks in Madison County live?

A. The majority lives in Canton and in those parts of the county [44] north of Canton.

Q. What Supervisor's Districts?

A. Supervisor's Districts 4 & 5 have heavy black majorities. District 3 which is Canton itself and some environs has a small black voting age population majority. Excuse me, that's not District 3, that's District 1.

Q. Districts 1, 4 & 5 are majority black districts?

A. Right. Districts 2 & 3 which are towards the southern parts of the county—Madison, Ridgeland, that area, Flora—have white voting majorities.

Q. Are there any black elected officials in Hinds County or have there been any black elected officials in Hinds County?

A. Hinds County?

Q. Madison County.

A. Yes, there are a few.

Q. What districts and what offices?

A. In Districts 4 & 5 there are constables, JPs, there was a supervisor. There are two school board members, Beat 4 and Beat 5. There also once was a voting election commission member who was black from Beat 1.

Q. That's county-wide?

A. Correct.

Q. Was that person elected by county-wide voting majority, or could you describe the circumstances in which a person was elected to county-wide office or to the county election commission?

[45] A. She was elected at a time before the Evers vote when the white turnout was very low because no black had won county-wide office. She won by a couple hundred votes and became one black member on the five member voting election. I mean voting commission.

Q. On the county board of election commissioners?

A. Election commissioners. She was one of the candidates in the 1972 election, as I was describing.

Q. For county-wide office?

A. For county-wide office of election commissioner. She lost along with the other two black candidates for election commissioner. In 1972 the whites in the county organized more effectively to vote against black candidates for election commissioner, and all three black candidates were defeated.

Q. Were there black candidates for county-wide office in the 1971 general election?

A. Yes, there were.

Q. What was the result of their campaign efforts?

A. Well, they all lost. They carried . . . in some cases, they carried black beats or precincts but they lost county-wide by a thousand or more votes, plurality.

Q. Can you tell us whether or not there is a black county-wide voting majority in Madison County at the present time?

A. Well, not effectively. Blacks have not won any county-wide office with the exception of this one time that I mentioned [46] when an election commissioner, more or less, sneaked through. In the recent vote for election commissioner they didn't win any and in the votes in 1971 they won no county-wide office. The voting age population shows a

slight black majority in the town, but it has not been translated into black political majority because of the gap between voting age population and registration and because of social economic circumstances which make it more difficult for blacks to mobilize politically than it is for whites.

Q. What is the gap between black voting age population and black registration? Can you describe whether or not there is a gap and what the reason is for that gap?

A. There is a gap. In percentage points, I don't remember how big a gap in Madison County. I'm sure that the registration statistics for blacks would be lower than the voting age population compared to whites. I don't remember exactly how much of a percentage gap there is.

Q. Have you yourself participated in a voter registration drive to help register more blacks in Madison County?

A. Yes, I have.

Q. When did you do that?

A. 19 . . . I believe I've done it twice, in the Fall of 1971 and early Fall of 1972.

Q. Based on your experience with this voter registration drive, can you give us an explanation as to why black registration is disproportionately lower in Madison County?

[47] A. Yes. There's a lot of causes. For example, the registrar, Mr. Foote Campbell, is considered to be a strong racist by the black population. There are stories of his calling blacks nigger, of his putting them down for them not having jobs, of his refusing to assist them with the form and many of these stories I have heard myself from the people who experienced them. Of his closing the office at three p.m., because there were blacks waiting in line when the office is supposed to be open beyond four. The result of that is that many blacks feel that it is a demeaning or possibly humiliating experience to go down there and deal with him, so they're shy and afraid to go and they don't go. Beyond that, there are some social economic causes going on, that are similar to the causes in Exhibit 14. There's a tremendous disparity between black income in Madison County, greater even than for Hinds County. The Hinds County data in Exhibit 14 shows that among occupations blacks are predominantly in what sociologists or economists would call blue collar positions. Whites are predominantly in white collar positions. The big difference between white collar and blue collar is, although often or usually a differ-



ence in income, the great difference is that a white collar person is called salaried and has some control over his own time and can take off at, let's say, 10:30 and go vote and come back at 11:00 as long as he's got the office covered or has someone to take over his position wherever he's working. A blue collar person is [48] on wages, punches in on a time clock and usually has much less control over his own life in the form of time, and cannot take off from the assembly line or from the construction job or whatever blue collar job he's in, he cannot take off from 10:30 to 11:00 or whenever; thus, it is much more difficult for blacks to get to register, to get to the polls on election day. You get a tremendous pile-up in Madison County of black voters at 5:30 in the evening. You get lines hundreds of people long at the West Ward in Canton. This deters people from voting, whereas in the eastern part of Canton, there are similar numbers involved in voting in white wards, but there's no pile-up because whites can come in all day long to vote as they get the opportunity from their home responsibilities or from their job responsibilities. All of these kinds of things—these social and economic causes—make it more difficult for blacks to vote and they add up to a subtle but very significant erosion of the black political potential, in Madison County, or in other counties.

Q. Let me give you some names of persons who purport to be residents of Madison County, and let me ask you if you know them or can identify them according to their race. Leslie Johnson?

A. Yes. He is black.

Q. Do you know Leslie Johnson?

A. Yes. I know him personally. He lives in Canton.

[49] Q. Was he a candidate for a position?

A. He has been.

Q. James Christopher Anderson?

A. Yes.

Q. You know James Christopher Anderson?

A. Yes, I do.

Q. What race is he?

A. He is black.

Q. He lives in Madison County?

A. He lives in Madison County.

Q. Has he been a candidate?

A. He has been a candidate.

Q. Let me describe for you House District No. 28 in the reapportionment plan that is currently being challenged. House District 28 is composed of four posts. Post 1, one representative resident of and elected by Madison County. In your view based on your experience and studies and analysis of Madison County, black voting strength in Madison County, what effect does this county-wide election feature have on black voting strength in Madison County?

A. If this man or woman is to be elected at large from Madison County, he or she is likely to be white because whites have controlled every major at large election, county-wide election, in Madison County in this century.

Q. Posts 2 and 3 are residents of and elected by Rankin County. Rankin County, according to census data, is majority white. [50] Post 4 is one representative elected, either a resident of Madison or Rankin County and is elected by voters in a district composed of both Madison County and Rankin County. What effect does this Post 4 feature have on black voting strength in Madison County?

A. That makes it all the more likely the person elected from Post 4 will be white because I'm sure Madison and Rankin County combined will show a definite white majority in voting age population. Even if blacks mobilized completely, they would not have an effective majority there. Since it's difficult to imagine an effective coalition in the county as it now stands, this would mean that the person elected from Post 4 would not be elected by nor in part by the black community and would not be representing their interests.

BY MR. PARKER:

I have no further questions. You may cross-examine.

DIRECT EXAMINATION BY

MR. ALLAIN:

Q. Doctor, how long have you been in Mississippi?

A. Since 1963. Continuously since 1968.

Q. In 1963, what were you doing in Mississippi?

A. I was a student at Mississippi State.

Q. How long were you here then?

A. One semester.

Q. Then where did you go?

A. I went back to finish up my B.A. which was from

Carleton College in Northfield, Minnesota. The next time I spent [51] time in Mississippi was in 1965, during the summer of 1965, I was employed in the Social Science Lab at Tougaloo College. The next time I spent an extended period of time in Mississippi, not counting visits, would be 1967. I spent about six or seven months in 1967 working in the Delta and living in the Delta doing research for my dissertation. Then, from 1968 on, I've been continuously here.

Q. I'm looking at Exhibits 3, 4 and 5, Maps.

A. Yes, sir.

Q. I understand Exhibit 4 is talking about the 60% and over, you're talking about a county is 60% or over Black?

A. That's correct.

Q. In Map 3, you say 34% and over. What are we talking about when we talk about this?

A. I called that Map 2. But it may be Exhibit 3. Do you mean Evers?

Q. Yes, Map 2.

A. What is your question, sir?

Q. What is [sic] the percentage here in the lefthand column denote? Thirty-four percent and over? What are you talking about?

A. That's the percentage of the vote for any county that went to Charles Evers.

Q. In other words, the county that has 60% and over black, then he got only 34% or over of the vote, is that correct?

[52] A. That's correct. In other words, there's probably some county in the shaded black area which is only 60% black. Others, of course, are 61%, 72%, etc. The same thing is true for the percentage of Evers. Some counties are 34%, others are 38%, 52% and so on.

Q. When you've got 34% and over, there's no way we can tell from the particular map what percent of the vote he got, the exact percent of the vote?

A. No. That's what the table is for.

Q. That's over here in this exhibit?

A. That's correct. The table.

Q. Looking at that table, I notice that . . . let's just take Amite County, for example, where Black population is better than 50%-50.5%—and Evers only got 30% of the vote. Is that correct?

A. 30.7.

Q. Of the vote actually cast?

A. That's correct.

Q. Humphrey got only 29.9% of the vote cast in that election. That's what you've got on this table?

A. That's correct.

Q. I notice in Madison County the overall number of voters, that the blacks are greater than the whites, is that correct? Of registered voters in Madison County.

A. This percent black is the percent black in the total population. It comes from the United States Census.

[53] Q. I jumped over here to this document you've got entitled *In The Public Interest*, put out by this Institute of Politics in Mississippi.

BY MR. PARKER:

What Exhibit is that?

BY MR. ALLAIN:

Exhibit 12.

That shows that the voter registration in Madison County is greater black than white. Is that correct?

A. That's correct. It shows 52.9% of the registered voters are black.

Q. You also testified that your studies show that Humphrey and Evers got approximately the same type vote in the 1968 and 1971 campaign election?

A. That's correct. The same pattern.

Q. And Humphrey is white?

A. Yes, sir.

Q. And yet you still say the black vote along racial lines. I don't understand that.

A. My assertion related actually even more strongly to whites voting on racial lines than it did for blacks. In 1968, you had two major white candidates, and there's no possibility the blacks could vote for a black candidate. There was no black candidate on the ballot. Blacks apparently felt that their interests would be more represented by Humphrey and by his party and the things he stood for than by Nixon and by his party and the things he stood for in his platform. [54] The whites apparently felt their interests would be more represented by Nixon, or at least by not voting for Humphrey. Not all votes against Humphrey were for Nixon.



Q. Doctor, you made up these exhibits, I didn't. The exhibits are made up on blacks rather than whites, and now you're switching over, depicting more or less what whites do, but don't the exhibits depict what blacks do?

A. By subtraction they depict what whites do. I just had to pick one or the other. In other words, what I'm asserting is that although there was no black candidate in 1968, nevertheless, blacks voted for a candidate they felt to be more representative of their interests and they did so as a bloc, and whites voted for Nixon and Waller as a bloc and voted against Humphrey as a bloc. There was very little white cross-over voting for Humphrey.

Q. Not on racial line. It may be on economic line. On the platform of each one of the candidates?

A. I wouldn't call that economic lines, because there's a great deal of economic overlap between blacks and whites, yet this overlap is not translated into votes.

Q. What did Humphrey stand for, or what did Humphrey's platform stand for in preference to Nixon or . . . let's just say Nixon and leave Wallace out of it?

A. That's difficult for me to testify to as an expert because I've been studying Mississippi politics and not trying to focus on. . . .

Q. Well, let's talk about Mississippi politics. What did the people, the blacks in 1968, why did they vote for Humphrey [55] in preference to Nixon?

A. I can't be a mindreader. I didn't conduct a massive interview research. I would suggest that . . . first of all, I was primarily interested in political behavior rather than what might be in someone's mind. Just as a matter of fact, as to your question of political behavior, blacks did vote overwhelmingly for Humphrey and whites did vote overwhelmingly for Nixon and Wallace. I would also suggest that in Mississippi you have a political party, The Loyalist Democratic Party, which contains such people as Charles Evers who is a black political leader and he, of course, spoke out in favor of Humphrey. Blacks were aware of this, and the whites were aware of this may influence again the fact that whites may have voted . . . whites did vote against Humphrey as a racial group perhaps because black spokesmen such as Aaron Henry and Charles Evers had committed themselves publicly to Humphrey.

Q. We have admitted that Humphrey is white. Do you

know who the electors were supporting Humphrey at that time? In 1968?

A. I don't remember them.

Q. Weren't they all white?

A. I don't believe so. No. I don't remember, though.

Q. You don't know what color they were?

A. I don't remember. I have a vague memory that they were an interracial group.

Q. In 1968, wasn't the war an element in the campaign?

A. Yes.

[56] Q. Do you know whether or not that was taken into consideration by the voter?

A. No. Again, I'd have to do a study of political opinions, political attitudes. I don't know. I would suggest that it was a confused issue, because both Humphrey and Nixon professed to be against the war. Nixon you may remember allegedly had a secret plan to end the war. Humphrey allegedly was going to be his own man with regard to war policy and had only been a vice president and not a president in charge of the war. Furthermore, in Mississippi, I have no evidence that the war issue was a major issue to voters in the state.

Q. In other words, what you're saying is that all you really know is that in a certain county, the population, let's say, is over 50% black, and in that particular county, Evers and Humphrey got a bigger percent of the vote in that county. You don't know why they got that percent of the vote.

A. Well . . .

Q. And all you can testify to is that fact. You cannot testify as to why the people in Desoto County voted a certain percent for Humphrey or for Evers?

A. I have not done any studies of people's minds around the time period in 1968. In fact, this analysis of voting statistics was done after the election and not before. It couldn't have been done before. So, I haven't done any opinion polls and I cannot say from my own knowledge what was in people's minds as they did vote one way or the other.

[57] I can state there was a certain kind of political behavior exhibited and I can relate that to race, and I can then come up with statements as I did about the role of black leadership in the Humphrey campaign, things like that. But in terms of an attitude study, I can't.

Q. So, you've made no study as to the difference in the platforms presented to the voters in Mississippi in regard to Humphrey, Nixon and Wallace, and whether or not that platform had any effect on the particular voter in the particular county?

A. I am aware of the platforms, but I have made no study of whether or not that platform made a difference to a particular voter. I haven't studied voters and whether they're aware of the platforms.

Q. In 1968 isn't it correct that the regular Democrats were not seated at the convention?

A. Yes. That's correct. At the Democratic National Convention?

Q. Right. Have you made any study to decide whether or not that element had any effect upon the white democratic voter in the 1968 general election?

A. No. I have not interviewed white voters to see how their opinions were influenced by this.

Q. Have you made any study in Mississippi in regard to the attitude of the voter as to candidate that will bypass a primary and go on the ballot as an Independent?

A. Could you repeat that?

Q. Have you made any study as to how the individual voter feels [58] about candidates who will bypass the primary and go on the ballot as an Independent in the November election?

A. I have not made such a survey of voters, no.

Q. I believe that Evers did run as an Independent in the 1971 election didn't he?

A. That's correct.

Q. Where does the Institute of Politics get its figures from, do you know?

A. No. I only know what they state. In some cases they've gone to the county where they have been able to get current registration figures. In some cases they can get those figures by race. You can't do that in Hinds County, or at least I can't, but in some counties you can get it by race that are based on reports from the Voter Education Project, from the Justice Department, from the Census itself. Plus, they've used various experts. They've gone to different counties and asked people knowledgeable about politics. In some counties they've done very extensive studies in order to check the accuracy of their projection, so it's kind of a combination of methods.

Q. Did Madison County have a Federal Registrar?

A. Yes, it had.

Q. Does it still have it?

A. No.

Q. But all those who wanted to register to vote could go down to the Federal Registrar with that problem, is that correct?

[59] A. At times. The Federal Registrar was there for about two weeks in 1972, for example, two and a half weeks. I don't know if the Federal Registrar has been in the county since that time. Federal Registrars are occasionally there. As I said, like the two weeks or two and a half weeks in 1972.

Q. When were you last in Madison County?

A. Around 1:20 this afternoon.

Q. What were you doing up there? You were at Tougaloo. When were you up in Madison County to make a study of the election trends and all these things you've testified to today about Foote Campbell and the attitudes of the people in Madison County as to why they don't vote?

A. I had a conversation today with a black person who is politically active and who is a candidate in Madison County. In terms of a formal study, the last time I made a formal organized study in Madison County was probably the Spring of 1973. I have attempted to keep informed by talking to people on a relatively continuous basis.

Q. Has most of your work been restricted to Hinds County and to Madison County?

A. Or state-wide. In terms of indepth studies of counties, my indepth studies have been limited to Hinds, Madison and Bolivar Counties, and then I've done a considerable amount of state-wide analysis.

[60] Q. Have you made an indepth study of Adams County?

A. No, sir.

Q. Have you made one of Claiborne County?

A. Just of those three counties.

Q. So, actually, you don't know anything about the attitudes and voting patterns or the voting feelings of any of the people in the other counties other than the three you just mentioned?

A. For example, Adams and Claiborne Counties appear on those maps before you. I know how they voted in those three elections. I know how those counties voted in the Goldwater election in 1964 and in the governor's election



and in other elections when I've done state-wide analysis. I have not done, let's say, voting machine by voting machine analysis or box by box analysis in Adams County or Claiborne County or in Noxubee County and so on. I have studied those counties insofar as they become part of the state-wide totals.

Q. Like Chickasaw got 35.6% black population and Humphrey got 13.9% of the vote and Evers got 17%, but you haven't made a study as to why that occurred like that?

A. No, sir.

Q. I don't have any further questions.

[61]

[Certificate of Deponent Omitted]

[62]

[Certificate of Court Reporter Omitted]

[Exhibits Omitted]

Plaintiff's Exhibit P-8  
May 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNOR, ET AL.,

PLAINTIFFS,

vs.

WILLIAM L. WALLER, ET AL.,

DEFENDANTS.

Civil Action No. 3830

DEPOSITION OF DR. GORDON G. HENDERSON

Taken By Plaintiffs

[1]

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[2] *APPEARANCES:*

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Jackson, Mississippi 39201

REPRESENTING PLAINTIFFS.

HONORABLE CHARLES MARX  
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Jackson, Mississippi 39205

REPRESENTING DEFENDANTS.

BE IT REMEMBERED that the deposition of DR. GORDON G. HENDERSON was taken by the plaintiffs in the above styled and numbered cause at 1:35 P.M., on November 1, 1974, in the law office of the Lawyers' Committee for Civil Rights Under Law, 233 North Farish Street, before Mrs. Glenda Ferguson, Court Reporter and Notary Public, pursuant to the following stipulation:

It is stipulated that this deposition is being taken upon notice duly given, pursuant to the Federal Rules of Civil Procedure, and that all formalities for the taking of the deposition are waived, except the reading and signing by the witness.

It is further stipulated that all objections except as to the form of the question will be reserved until the time of trial of the cause.

BY MR. PARKER: Let the record show that Charlie Marx is present representing defendants. Let me just say for the record that this case is perhaps in what we might call unusual posture, and it may be necessary to use this deposition as a trial deposition at some point in the case.

[3] I just wanted to indicate, too, that if it becomes necessary, we will use this as a trial deposition.

BY MR. MARX: For that reason we will reserve all objections except as to the form of the question.

BY MR. PARKER: We will have the usual stipulation.

*DR. GORDON G. HENDERSON*

after having first been duly sworn by Mrs. Glenda Ferguson, Notary Public in and for Hinds County, Mississippi, was examined and testified on oath as follows:

DIRECT EXAMINATION BY MR. PARKER:

Q. Dr. Henderson, let me hand you a Curriculum Vitae which is dated August 1974, and ask if you can identify that for me?

A. That is my Curriculum Vitae as of August 1974. I have had occasion to look this over in the past two months, and at that time I said that it was correct.

Q. Are there any additions or changes that you wish to make? For example, are you still Secretary-Treasurer of the Southwestern Political Science Association?

A. Not as of the moment.

Q. Are there any other changes in your academic work or teaching or your publications?

A. Apart from the listing of professional memberships, which is incomplete, I would make no other changes in the Curriculum Vitae. My professional memberships that should be included in addition to those listed here are the Midwestern Political Science Association, [4] The Mississippi Political Science Association, The New England Political Science Association, and The Western Political Science Association.

Q. Did you prepare this Curriculum Vitae?

A. Yes, I did.

BY MR. PARKER: I ask that this be made Exhibit 1 to the deposition.

(The said document was marked Exhibit 1, Testimony of Dr. Henderson, and is appended hereto).

EXAMINATION CONTINUING:

Q. What is your current address?



A. 1536 Winchester Street in Jackson, Mississippi.

Q. What is your current position?

A. I am Director of the Computer Center and Professor of Political Science at Tougaloo College in Tougaloo, Mississippi.

Q. How long have you been in that position at Tougaloo College?

A. Since the Summer of 1972.

Q. I believe that your Curriculum reflects that prior to that you were Professor of Government at Texas Tech University in Lubbock, Texas?

A. That is correct.

[5] Q. What degrees do you possess? Academic degrees.

A. I have a Bachelor of Arts and Master of Arts and Doctor of Philosophy Degree, all from Columbia University.

Q. In what field is your Ph.D.?

A. It's in the field of Political Science.

Q. Have you developed any special interests or special areas of expertise in the area of Political Science?

A. I am especially interested and competent in the field of political behavior and attitudes, and political parties.

Q. Have you done any work in your area of specialization in Mississippi?

A. Yes, I have. I have done considerable work as part of routine research and teaching responsibility dealing with politics in Mississippi and have done so for at least the past 12 years.

Q. Would you hit for us, Dr. Henderson, if you would please, the high points of your research and work in Mississippi. Projects that you've worked on and completed.

A. Most recently, I have been interested in two major lines of inquiry. One being the patterns of black and white voting and the social and economic [6] characteristics that tend to be associated with what I would call bloc voting and within the last two years, I have also done a good deal of work in connection, primarily, with my teaching in the area of redistricting. Those have been my major areas of concern.

Q. Have you testified as an expert witness in any previous cases?

A. Most recently.

Q. Can you answer the question yes or no?

A. Yes, I'm sorry. Yes.

Q. In what cases have you testified as an expert witness?

A. In Southern Federal District Court in the Hinds County Redistricting case.

Q. When was that?

A. August 1974. In the past two weeks, immediately in the case in Rankin County Circuit Court.

Q. What was the subject of your testimony?

A. It was social and attitudinal characteristics of young people; most specifically, those 18, 19 and 20 years old.

Q. Have you testified in any other cases?

[7] A. In one other that I remember well, and it is a case that I styled the Jackson Swimming Pool case, and this was sometime in the early 1960's, again in Federal District Court, specifically before Judge Harold Cox.

Q. What was the subject of your testimony in that case?

A. That, again, was a question of attitudes of whites and blacks in Mississippi generally, but most specifically, in Hinds County. That testimony arose out of a study I had done of attitudes in Hinds County.

Q. As Director of the Computer Center at Tougaloo College, are you familiar with the use of computers and computer programming?

A. Yes, I am.

Q. How have you gained that knowledge?

A. A considerable amount of my knowledge in that area has been a matter of self-teaching, necessarily so because by the time I finished all of my graduate work and Ph.D. at Columbia University, the primary and best known of all computer programming languages, the language called Fortran, had not yet been developed, and therefore the languages that I have learned, I have learned on my own and those are the languages that I now have the responsibility for teaching. [8] I also picked up extensive learning and applications experience in the use of computers in the analysis of data at a summer conference sponsored by The National Science Foundation held in Dallas in 1964. I'd say those two lines of activity then, first activity undertaken on my own, and secondly that particular in itself the conference is where I have gathered most of my expertise in the use of computer and computer programming.

Q. Have you used computers and computer programming in any business enterprise or non-academic work?

A. Yes. I was a partner in a survey research firm called

Data Surveys with headquarters in Phoenix, Arizona. As the description of the fund is intended to suggest, one of its primary interests was in the analysis of large blocks of data for businesses such as drug companies for which we had a good deal of business and with city, county and state government for which we did data analysis, and because there was considerable data involved, we necessarily had to make extensive use of computers, and it was primarily my responsibility to superintend the computer analysis of the data.

[9] Q. Does any of your course work at Tougaloo College involve computers or the use of computers? Do you use this in computers or do you teach computer techniques?

A. I teach one course every year in programming language. My responsibilities also include the development of programs for the entire academic instruction in programming. Thus, meaning for example, that I have the responsibility for developing computer programs for students to use in classes and in labs in many different areas of the college, including both the natural and social sciences—Biology, Chemistry, Economics, Sociology, Political Science and so forth. I also use and require students to gain a meaningful amount of knowledge sufficient to enable them to use our computer facilities in the courses, in many of the courses, that they take.

Q. Can you tell me whether or not, Dr. Henderson, within the field of Political Science, there is presently a recognition that computers can be valuable in approaching problems such as legislative redistricting?

[10] A. Yes. There is considerable literature that you can find in the professional journals which indicate the great value computers can have in questions of redistricting. For two reasons—first, that redistricting involves a great amount of data which must be handled in some fashion, and any time there are a lot of facts and figures . . . in a redistricting case, for example, there may be literally thousands of such figures, it makes sense to use a computer to handle these massive quantities of data, and then, second, a computer is especially valuable in a redistricting case because it can do in a short period of time once a program has been written what it would take a person sitting down to do himself with a calculator probably months and quite conceivably years to do.

Q. Is it possible to program computers to work out and solve redistricting problems?

A. Yes, it is. In fact, it's quite common.

Q. Have I asked you to devise a program for the Mississippi Legislative Redistricting based on Mississippi counties used as building blocks to create State Legislative Districts?

[11] A. Yes.

Q. Would you describe for us, Dr. Henderson, how this computer program actually works?

A. The program which I wrote in response to your request is actually two programs. The first program accepts as input the population figures taken from the 1970 census of population for each of the 82 counties in Mississippi and a specification of the adjacent counties for each of the 82 counties. The first program then accepts this data and within certain programming parameters which I built into the program begins with one county and then attempts to find adjacent counties and develop a districting scheme for the entire state. The programming parameters that I referred to are in effect instructions which I received from you.

Q. Before we go into the actual parameters you indicated there were two programs. Could you describe for us the second program?

A. Of course. The second program is one I call the Re-apportionment Combo Program, and all it is very simply is a program which examines all possible combinations up to combinations of four of all counties in the state. So, for example, if I had [12] the output program with me, you might ask me what variance above or below the norm is a combination of say County A, B, C, and D and I could look it up on the output of this second computer programming.

Q. What computer did you use for programming this legislative redistricting?

A. I used the IBM 1130 computer at Tougaloo College.

Q. Would you say that within the family of computers this computer would be one of the more or less sophisticated type of computers of the kinds of computers that are available?

A. Particularly within the IBM family, this is a less sophisticated and fairly small machine.

Q. What parameters did you include in your programming? In other words, what criteria did you set out for the redistricting program to start off?

A. There were several. Let me just enumerate them.



(1) Use whole counties, not portions of counties. (2) In effect, devise a plan which had a variance smaller than that in the plan developed by the state. (3) Smaller districts. That is to say a district composed of two counties were to be preferred to larger districts; that is to say a district that [13] contained three or four counties. (4) That there were in the case of the house to be no more than three counties per district, and (5) and finally, that such counties as Leake and Newton which have a common boundary point whereby they could be defined as being adjacent to one another were, for this program, not to be considered adjacent.

Q. You had this requirement, but how could it be expressed another way? Is that a requirement of contiguousness?

A. Yes.

Q. Could you describe the requirement for contiguousness?

A. Contiguousness for the purpose of this computer program was defined to exclude any county which showed only a common boundary point, rather than a common boundary line which could be measured in miles.

Q. What did it include?

A. It therefore included only those counties defined as adjacent that showed a boundary that could be measured in miles.

[14] Q. Did you change at all the number of seats in the Mississippi House or Mississippi Senate?

A. No. I did not.

Q. What population data did you use?

A. I used the population, total population for each county listed in the 1970 Census of Population.

Q. What instructions did you give to the computer with regard to the acceptable variance for House and Senate districts?

A. The program provides for the devising of plans in which the user, that is to say me, indicates what is an acceptable level of variance. Therefore, the program would permit the design of a districting plan for the legislature which will accept any combination of counties into a district that has say 10% variance, 15% variance, 7½% variance. The variance can be specified by the user, and when I came to use the program I simply attempted to design plans within different levels of variance.

Q. What was the goal?

A. The goal very simply was to produce a plan that as much as possible had a span of variance less than the variance of the state's plan.

[15] Q. Was the census population data which you used identified by race or were racial population figures included in the program?

A. No. The program in no way is designed to accept identification of any other characteristic of the population except the total number of people listed for the county.

Q. As a result of your work with this computer program, did you find whether or not using the criteria or the parameters that you've outlined that the variances which are present in the State Legislature's plan could be decreased, or that a plan could be devised which provides for greater equality of population than is provided in the State Legislative Redistricting Plan?

A. I did.

Q. Let me hand you a map which is designated Senate Plan 3-20-73 and ask if you can identify that?

A. I can. I drew this map. That is to say I took a base map which is identified as that of the Tucker Printing House and used a red felt pen to indicate what counties were included in a redistricting plan which was designed by the computer program I've been talking about.

[16] Q. This is a map which is a product of your computer program?

A. That is correct.

Q. The computer didn't draw the map?

A. No. I did.

Q. I ask that this be marked as an exhibit, Exhibit 2.

(The said document was marked Exhibit 2, Testimony of Dr. Henderson, and is appended hereto).

#### EXAMINATION CONTINUING:

Q. Let me hand you copies of what purport to be computer printout made by the Senate 3-20-73 plan and ask if you can identify that?

A. This is the printout generated by the Tougaloo 1130 of a districting plan for the Senate which was produced on the 20th day of March 1973.

Q. Would you separate the original so that we can mark it as an exhibit to your deposition?

A. Yes.

BY MR. PARKER: I ask that this be marked Exhibit 3 to the deposition.

(The said document was marked Exhibit 3, Testimony of Dr. Henderson, and is appended hereto).

[17] EXAMINATION CONTINUING:

Q. Hand the witness Exhibits 2 and 3 please. Are these the products of your work as you've described in this deposition, Dr. Henderson?

A. Yes.

Q. These plans incorporate the parameters and criteria that you've indicated?

A. Yes.

Q. Using those criteria and parameters that you've indicated previously in your testimony, can you tell us whether this Senate plan represents the minimum possible variance using whole counties and combining as few counties as possible and the other criteria you've mentioned?

A. I believe it does.

Q. How many legislative districts are there in your Senate plan?

A. There are 31 districts.

Q. In how many districts are there more than three counties involved?

A. I count four.

Q. In which districts are those?

A. District 20.

Q. How many counties are combined there?

A. Five.

[18] For how many seats?

A. Two. District 24.

Q. How many counties?

A. Four.

Q. How many seats?

A. Two. District 28.

Q. How many counties?

A. Four.

Q. How many seats?

A. Two. District 29.

Q. How many counties?

A. Four.

Q. How many seats?

A. Two.

Q. So, in all the other counties, there are three counties are less than three counties?

A. That is correct.

Q. Using the computer program which you devised, how close is it possible to get to the equality of population among Mississippi Senate Districts using the criteria which you have outlined?

A. In this plan, one district is 6.26% above the population norm.

Q. Is that the maximum plus variance?

[19] A. Yes, it is. One district has a variance of 4.25% below the population norm.

Q. Is that the maximum minus variance?

A. Yes, it is.

Q. What then is the standard?

A. The standard is is [sic] 10.51%.

Q. In your experience working with this computer program, is this the greatest possible equality of population that can be arrived at using the criteria which you've mentioned?

A. Yes, I believe it is.

Q. Directing your attention to Exhibit 3 which is the computer printout, would you identify for us what information or data is contained on the computer printout?

A. For each district in the plan, a number has been provided, that is, each has been numbered 1-31, and for each of these districts is indicated the number of legislative seats in the district, the name of the counties that are included, the total population of the district, and the actual variance, plus or minus percent.

Q. Is that the variance from the norm?

A. Yes, it is.

[20] Q. Would you define for us what we mean by "norm" in legislative redistricting?

A. In this instance, the number of seats desired was 52, and the norm therefore is calculated by dividing 52 into the total population of the state.

Q. Did you program the computer to calculate the norm in each district?

A. Indirectly, I did. I specified what the norm was and



that is how the program was able to calculate what the variance was for each district.

Q. Is this map and this computer program entirely your work and your product?

A. Entirely.

Q. Have you checked it for accuracy?

A. I have.

Q. Is it accurate?

A. I believe it is.

Q. Let me ask you to identify this map which says House Plan 4-18-73. Can you identify that?

A. I can.

Q. What is it?

A. This again takes a base map identified as that of the Tucker Printing House, and on the base map of [21] the 82 counties in Mississippi, I have taken a red felt pen and indicated the boundaries of the legislative districts for a districting plan generated by the computer for the Lower House of the Mississippi Legislature, and this map represents the output from the computer on the 18th of April 1973.

BY MR. PARKER: I ask that this be made Exhibit 4 to the deposition.

(The said document was marked Exhibit 4, Testimony of Dr. Henderson, and is appended hereto).

#### EXAMINATION CONTINUING:

Q. Would you hand the witness Exhibits 4 and 5 please? Did you do the same thing for the House that you did for the Senate?

A. I did.

Q. What did you produce?

A. What was produced is the computer printout which is here as Exhibit 5.

BY MR. PARKER: I ask that this be made Exhibit 5 to the deposition.

(The said document was marked Exhibit 5, Testimony of Dr. Henderson, and is appended hereto).

#### [22] EXAMINATION CONTINUING:

Q. What does that computer printout contain? What data or information does it contain?

A. It, as was true for the Senate, includes a listing of the

counties included in each legislative district. It indicates the number of seats in each district. It indicates the total population of the district, and the actual variance of the district's population from the norm.

Q. Are the counties which are combined into each district and the variances in each district illustrated on the map which is Exhibit 4?

A. Yes, they are.

Q. Have you done that yourself? Did you draw the map?

A. Yes.

Q. Is both the computer printout and the map your work?

A. Yes, it is entirely.

Q. Are there any House districts which contain combinations of more than three counties on this map?

A. No.

Q. You've seen the computer program which you devised. How close is it possible to get to equality of population among House districts using the criteria which you have mentioned before?

[23] A. In this plan one district has a variance of 6.74% above the norm. One district has a variance of 6.32% below the norm.

Q. What is the total span?

A. The total span is 13.06%.

Q. How many House districts does this plan labeled 4-18-73 provide?

A. 35.

Q. Let me hand you another set of computer printouts and ask if you can identify this computer printout?

A. I can.

Q. What is it?

A. This is a plan which was generated by the computer, for the House, on the 10th of March 1973.

Q. Would you separate the original from the copies. Would you mark this Exhibit 7? Would you mark the map Exhibit 6 please?

BY MR. PARKER: I ask that the Map be marked Exhibit 6.

(The said Map was marked Exhibit 6, Testimony of Dr. Henderson, and is appended hereto).

[24] BY MR. PARKER: I ask that the Printout be marked Exhibit 7.

(The said printout was marked Exhibit 7, Testimony of Dr. Henderson, and is appended hereto.)

BY MR. PARKER: Let the record show that we've given copies of all these maps and all of the printouts to counsel for the defendants.

EXAMINATION CONTINUING:

Q. Dr. Henderson, was this plan 3-10-73 generated in the same manner and using the same criteria as the previous House plan?

A. Yes, it was.

Q. Does the computer printout, Exhibit 7, contain the same data, the same categories of data as indicated in the previous printout of the House plan?

A. Yes, it does.

Q. Is this map, Exhibit 6, your illustration on a standard map of Mississippi, the counties that are combined and the variances that are contained in the computer printout?

A. Yes.

Q. Are these, the computer printout and the map, both your work?

A. Yes.

[25] Q. Referring to Exhibits 6 and 7 how close is it possible with this plan to achieve equality of population among the House districts using the criteria which you have mentioned?

A. In this plan one district has a population which is 6.74% above the norm, and another district has a population that is 3.88% below the norm, for a total span of variance of 10.62%.

Q. Is this the greatest equality of population that can be achieved in House districts using the criteria which you have mentioned for the House?

A. I believe it is.

Q. Would you hand the witness Exhibits 4 and 5 please? Comparing Exhibits 4 and 5 which is the House plan 4-18-73 and Exhibits 6 and 7 which is the House plan 3-10-73, according to the criteria which you set out previously, which plan is preferable?

A. According to the criteria, the plan for the House of April 18, identified on the map marked as Exhibit 4, is the preferred plan, because the criteria said that smaller districts were to be preferred to larger districts, and if you

compare the maps you will see that the plan of 4-18 combines Humphreys and Holmes Counties which is a district containing only two [26] counties whereas in the plan of the 10th of March, Humphreys is combined with Holmes and Washington creating a larger district containing three rather two counties. Further, in the plan of the 18th of April, Issaquena is combined with Washington to make a two-county district, whereas in the plan of the 10th of March, Issaquena was combined with Sharkey and with Warren to create a three-county district, and because, as I said, the plan of 4-18 meets the criteria that smaller districts are to be preferred to larger districts, the plan of 4-18 comes closer to meeting these criteria than does the plan of the 10th of March.

Q. On either of your plans, for either the House or the Senate, have you provided for any floterial districts?

A. No.

Q. Have you provided for any place or residence of the plans?

A. No.

Q. Have you calculated the variances in the state's plan exclusive of the floterial districts in House Bill 1389 and Senate Bill 2452?

A. Yes, I did.

[27] Q. I would like for you to assume the purposes of your testimony that the facts in this case show the Senate plan enacted by the Legislature contains a span of variances of plus 9.584—this is for the Mississippi Senate—plus 9.584% and -9.219%. District 29 would be +9.584 for the Senate. Actually, District 19 is -9.319, so that would be the maximum minus. Does that correspond with the calculations that you have for the Mississippi Senate under the state's plan District 19 and District 29?

A. I don't have the calculation for 29, but 19 is close. I may be looking at the wrong printout. I'm looking at Senate Bill 1701.

Q. No, it's 2452. I think they're the same. Let me just ask you to assume +9.584 and -9.319—would be the total span of variances?

A. It would be 18.903.

Q. How do those variances or deviations of population equality in Senate Bill 2452 compare with the variances or deviations in population equality in the Senate plan produced by your computer?



A. May I have Exhibits 2 and 3 back please? (Exhibits given to the witness) In the plan which I devised the total span of variance is 10.51. The maximum [28] variance above the norm is 6.26% and the maximum variance below is 4.25 which means that the variance in my plan is a little more than half what it is in the Mississippi state plan.

Q. Which plan achieves greater equality of population?

A. My plan.

Q. Let me now ask you to assume that the State plan for the House of Representatives has variances of -9.823, and that would be District 18, Grenada and Montgomery Counties and the maximum plus variance of +9.906 which is District 3, Desoto and Marshall Counties. What would be the span of variances from population equality in the House plan enacted by the Mississippi Legislature?

A. 19.729%.

Q. How does the House plan enacted by the Mississippi Legislature compare with your plan for the House in terms of an effort to achieve population equality?

A. In one of my plans, that of the 10th of March, the total span of variance is 10.62%. In my plan of the 18th of April, the total span of variance is 13.06%. The span of variance in both my plans therefore is substantially less than the variance in the state plan.

[29] Q. Which plans provide for greater equality of population among the districts?

A. My plans.

Q. In your opinion as a Political Scientist and based on the research you've done in computer programming for the legislative districts, does the State Legislature's redistricting plan using the criteria that you've mentioned provide the greatest practicable equality of population for the districts for the House or for the Senate?

A. No.

Q. In your judgment or in your opinion based on your work in computer programs, how many plans could be devised that would provide greater equality of population among the districts than the State Legislature's plan for both the House and the Senate using the criteria that you've outlined?

A. The considerable number of runs that I did indicates that there are probably literally hundreds of plans that would come closer to equality of population in the districts than the plans offered by the State.

Q. Your plans utilize multi-member and in some cases multi-county districts, do they not?

A. Yes.

[30] Q. Have you familiarized yourself with the literature in your area of Political Science with regard to the arguments for and against and the criteria and the effects of multi-member districts?

A. I believe I am familiar with that literature.

Q. In your judgment as a Political Scientist, do multi-member legislative districts work to the detrimental disadvantage to any population or interest groups?

A. They can work to the detriment of any cohesive minority within the district.

Q. Would you explain that answer please?

A. I would say that in the present case, for example, a plan that provided for multi-member districts would work substantially against the interests of a black minority in a multi-member legislative district by making effective representation impossible.

Q. What was the purpose then in generating House plans and Senate plans with a computer as you've done in providing for multi-member districts?

A. The purpose of this exercise was simply to determine whether it was possible to devise plans for the House and for the Senate that had a substantially smaller span of variance than did the plans developed by the state.

[31] Q. Was that using the criteria found in the State plan followed by the State Legislative plan?

A. Substantially, yes. As the record has already indicated, there are no flatorial districts so there are differences other than simply the variance differences between my plans and the plans developed by the state.

Q. In your judgment as a Political Scientist, which type of legislative district do you believe is preferable, or in your opinion is preferable, multi-member legislative districts or single member legislative districts?

A. Single member legislative districts.

Q. Would you give a reason or explanation for that?

A. A single member legislative district offers a substantial cohesive minority such as a black minority, more of an opportunity to elect a representative of their particular preference than can possibly be accomplished if that minority is a real minority in a multi-member district. A single member district, in other words, permits what would

be a minority in a multi-member district to be a majority in a district with a smaller population.

[32] Q. Is this simply your opinion as a Professor of Political Science at Tougaloo College or is this opinion shared among Political Scientists writing any literature generally?

A. This is a view widely shared by people whose special interest is in voting and elections.

Q. Moving on to another subject. Have you made a study of racial voting patterns in Hinds County, and particularly in the city of Jackson?

A. Yes, I have.

Q. Did you do this study for this particular case?

A. No, not at all.

Q. What was the purpose for making the study?

A. The immediate purpose for pursuing my general interest in this area was to prepare an article for submission to a publication in a professional journal. Do you want my research interests?

Q. Yes.

A. My research interests in it were three. One, I define as simply being that the inquiry was of practical concern to many people, because black plaintiffs have brought suits against multi-member districts, and it can be demonstrated and has been demonstrated that when blacks are less than a majority [33] of the population in a multi-member district, that in itself almost guarantees that black votes are going to be cast for a losing candidate provided that an at-large system of elections guarantees that each voter gets to cast a vote for more than one candidate and thus the corollary of this is that in such a multi-member district, white candidates are certain to win. My second research interest is one which has been the focus of a great many books and articles, particularly written during the last fifteen years and that is, in effect, that candidate characteristics such as a candidate's religion or his being black has upon voting choice and the literature presently contains . . . let me put it this way. There is a general understanding within articles in the literature as of this moment that blacks are among the most cohesive of voting groups in the entire population and that they share a set of policy preferences particularly and attitudes in general which are highly distinctive and which

tends therefore to set them apart at many points from the population as a whole, and from this is argued that black candidates are required in order to adequately represent this distinctive set of policy preferences and attitudes, and my third research interest [34] was the general one of providing a sufficient means of proof of the existence or non-existence of black voting that would satisfy generally accepted professional standards of proof.

Q. What data did you use in your study?

A. I relied primarily upon two classes of data; data taken from the 1970 Census of Population specifically data found in the census publication . . . the census publication known as Block Statistics for Jackson, and the second being Returns by Precincts, election returns, for the 77 precincts in the city of Jackson as of 1971.

Q. Did you also use voter registration data?

A. Yes, I did.

Q. Did you also use maps and precinct data showing the ballots cast?

A. Yes, of course.

Q. Before we get into the results of this data, I would like to ask you some general questions about the procedures. Did you, as part of your study, determine the racial composition of the 77 election precincts for the city of Jackson?

A. Yes, I did.

[35] Q. Why did you use the 77 precincts?

A. Because this made it possible to compare directly voting behavior in 1971 and in 1972, and then again in 1973. The precinct boundaries were changed mainly by the addition of new precincts, new numbered precincts, but sticking only to the 77 precincts that were in existence in 1971 made it possible to compare the voting behavior of precisely the same precincts over the course of this three-year period.

Q. How did you determine the racial composition of the Jackson voting precincts?

A. The block statistics provide for each block the following data, and I am reading the column headings directly from that publication . . .

Q. Would you give us the title and citations of that publication please?

A. The title is *Block Statistics, Jackson, Mississippi, Urbanized Area, Department of Commerce Publication, HC (3)—133.*



Q. What page are you reading from?

A. I am reading the column headings from Page 2. Those column headings are Total Population, Percent of Total Population Negro, Percent of Total Population Under 18 Years, and using those three data for each block it is [36] possible to calculate the number of blacks in each block and then by allocating each block to a precinct to arrive at a figure of the total population, the total black population, the total white population, and the total population 18 years and over for each precinct.

Q. Do you have a computer printout which reflects the data that you used and the results of your study?

A. Yes, I have.

Q. Could I have it please? (Witness hands printout to Mr. Parker)

BY MR. PARKER: I ask that this original which I've just been handed be marked as Exhibit 8 to this deposition.

(The printout was marked Exhibit 8, Testimony of Dr. Henderson and is appended hereto).

Q. Would you hand the witness Exhibit 8 please? (Exhibit 8 given to witness) Directing your attention to Exhibit 8, Dr. Henderson, could you tell us what this computer printout represents?

A. This presents data for each of the 77 precincts in Jackson. It includes under the column PCT the number of the precinct. Under the column, POP the total population in the precinct. Under the column BLK, [37] the total black population in the precinct. Under the column PR, POP, BLK, The Percent of the Population in the Precinct that is Black; in the column 18 & Over, Total, the Number of Persons in the Precinct 18 Years and Over; and under the column 18 and Over BLK, the Number of Persons in the Precinct 18 and Over Who are Black, and in three columns Registration 1971, Registration 1972, and a third column also Registration 1972; the Number of Registered Voters in the Precinct at Three Points in Time. Then, in the column Percent Registered 1971, 1972, and 1972; the Number of Registered Voters at Three Points in Time Expressed as a Percentage of the Total Population in the Precinct 18 Years and Over; and finally, under three columns Turnout 1971, 1972, 1973; the Number of Votes Cast in Three Elections Expressed as a Percent of the Number of Persons in the Precinct 18 years and over.

Q. Let me hand you three documents, and ask if you can identify them?

A. I can.

Q. I'm going to hand copies of these documents to counsel for the defendants. What are these?

A. The first of these documents indicates the number of registered voters in 77 precincts as of June 29, 1971, and I myself have a copy of this document which I obtained myself from the City Clerk's Office, the City Clerk of Jackson, and it is this document that I used to record the registration figures for 1971.

BY MR. PARKER: I ask that the first one, June 29, 1971, be marked Exhibit 9.

(The said document was marked Exhibit 9, Testimony of Dr. Henderson, and is appended hereto).

[38] EXAMINATION CONTINUING:

Q. What is the next document?

A. The next document indicates the total registered voters in precincts in Hinds County as of March 31, 1972.

Q. Did you use this data in your study?

A. I obtained this document from the County Clerk's Office, and it is figures taken from this document that appear as the registration figures, the first of the registration figures for 1972.

[39] BY MR. PARKER: I ask that this document, March 31, 1972, be marked Exhibit 10.

(The said document was marked Exhibit 10, Testimony of Dr. Henderson, and is appended hereto).

EXAMINATION CONTINUING:

Q. What is this document?

A. The third document is a list of registered voters for precincts in Jackson as of October 10, 1972.

Q. Did you use this data in your analysis?

A. I obtained a copy of this document myself from the City of Jackson Clerk's Office, and these are the figures I used for the second registration figure in 1972.

BY MR. PARKER: I ask that this document, October 10, 1972, be marked Exhibit 11.

(The said document was marked Exhibit 11, Testimony of Dr. Henderson, and is appended hereto).

**EXAMINATION CONTINUING:**

Q. Let the record show that these are copies of . . . certified copies of official documents which were put in evidence in the case of KIRKSEY VS. BOARD OF SUPERVISORS, HINDS COUNTY, MISSISSIPPI, which is the [40] Hinds County Redistricting case, and I can attest that these are copies of the documents placed in evidence as exhibits in that case. Do you concur with that, Dr. Henderson?

A. Yes, I do.

Q. What turnout figures did you use?

A. The turnout figures were calculated by a computer program that I wrote and turnout is merely an expression of the number of votes cast for candidates in elections in '71, '72 and '73.

Q. What '71 election did you use?

A. The '71 election was the election for governor.

Q. What voting figures did you use?

A. The votes cast for candidates for governor.

Q. This is a copy, a certified copy, which was also in evidence and admitted as accurate in KIRKSEY VS. HINDS COUNTY BOARD OF SUPERVISORS. Let me ask you, Dr. Henderson, did your testimony in KIRKSEY VS. HINDS COUNTY BOARD OF SUPERVISORS cover this same study?

A. Yes, it did.

Q. This is a certified copy. I don't have an extra copy, but would like to ask that this be marked as an exhibit.

(The said document was marked Exhibit 12, Testimony of Dr. Henderson, and is appended hereto).

**[41] EXAMINATION CONTINUING:**

Q. The second document is a certified copy of the '72 presidential election. What figures did you use for the '72 turnout figures, Dr. Henderson?

A. The figures I used there were the figures available from the Secretary of State's Office for the votes for president in 1972.

Q. Now, Mississippians do not vote for presidents. Mississippians vote for presidential electors. How did you resolve the conflict in presidential electors?

A. I chose the highest vote cast for anyone of the presidential electors.

Q. This is a certified copy which is in evidence in KIRKSEY VS. HINDS COUNTY BOARD OF SUPERVISORS indicating the vote for the presidential electors by precinct in Hinds County. I'd like to ask that it be made an exhibit to this deposition.

(The said document was marked Exhibit 13, Testimony of Dr. Henderson, and is appended hereto).

**EXAMINATION CONTINUING:**

Q. What figures did you use for the '73 turnout figures, Dr. Henderson?

[42] A. The figures reported for 1973 are the votes cast for the three City Commissioners.

Q. This is a copy of a certified copy which has been placed into evidence as an exhibit in KIRKSEY VS. HINDS COUNTY BOARD OF SUPERVISORS indicating the official election returns by precinct for the City of Jackson for the general election for Commissioners and Mayor was held on June 5, 1973. It bears the signatures, or copies of the signatures, of the municipal Election Commission. I'd like to ask that this document be marked as Exhibit 14 and attached to the deposition.

(The said document was marked Exhibit 14, Testimony of Dr. Henderson, and is appended hereto).

**EXAMINATION CONTINUING:**

Q. Dr. Henderson, do these exhibits which we have marked and attached to the deposition incorporate all the basic data that you used apart from the Census data in your study of racial voting patterns in the 77 precincts of the city of Jackson?

A. Yes.

Q. Does your study show whether black voters and/or white voters have any distinctive preferences in their voting patterns?

[43] A. Yes.

Q. What conclusions do you draw from your study, or what are the results of your study of the racial voting patterns in the 77 precincts of Jackson?

A. Very simply, it indicates first and overall that blacks



tend to vote for black candidates, and whites tend to vote for white candidates.

Q. Can you tell from this data in Exhibit 8, the computer printout, how strong that tendency is?

A. It is possible to tell from this data, it is even easier to tell from the data of another computer printout, and I also have copies of this with me.

BY MR. PARKER: I ask that this document be marked Exhibit 15.

(The said document was marked Exhibit 15, Testimony of Dr. Henderson, and is appended hereto).

#### EXAMINATION CONTINUING:

Q. What information did you obtain from your study which is incorporated in Exhibit 8 with regard to registration of whites and blacks in 1971 and in succeeding elections?

[44] A. If you will inspect Exhibit 8 carefully you will see that overall registration is lower in predominantly black precincts than it is in predominantly white precincts and that blacks in elections in '72 and in '73 in which no black candidates participated, registration declined significantly in black precincts while as voting studies would lead us to expect, registration in white precincts tended to increase, particularly between 1971 and 1972. Voting studies consistently lead us to expect that this phenomenon will occur and the data of Exhibit 8 is clear evidence that what we know from extensive voting studies going back 30 years did indeed occur in these 77 precincts.

Q. What is the significance of your study in the 1971 gubernatorial election?

A. In 1971 the gubernatorial election serves as a base point because there was in that election a conspicuous black candidate running for governor.

Q. Who was that?

A. Charles Evers.

Q. What is the significance in the 1972 presidential election, how is that significant?

A. In the 1972 election the candidates were white. The office was the office of President, and one would [45] therefore by knowledge of voting studies expect turnout generally to be higher, and in 1972, generally, it was but only for whites.

Q. What was the significance of the 1973 City Council election?

A. Once again, the choice of a city election is important because, from our voting studies you expect turnout in a local election to be lower, generally, than turnout for either a state or national election, and in the '73 election the predictions were perfectly realized for white voters. Turnout declined below what it had been in '72, but it declined at an even greater rate for black voters.

Q. There was a black candidate in that City Council election. I believe James Meredith, is that correct?

A. That is correct, and that's the second reason for looking at that particular election because the data indicates somewhat less well here than it does in the other computer run that blacks in '73 decidedly preferred Meredith to any other candidate who was running, and that whites decidedly preferred white candidates above Meredith in that election, and this then again goes to the point of demonstrating the existence and direction of bloc voting when an opportunity for bloc voting manifests [46] itself as it did in 1973.

Q. We tend to think, or at least the Mississippi press tends to think that bloc voting is blacks voting only for black candidates. Could you tell us if that's what we mean by bloc voting or whether it works both ways?

A. No, it works both ways, very decidedly so.

Q. Have you prepared a table showing the votes for the various gubernatorial candidates in 1971 and the 20 selected precincts in Hinds County?

A. I have prepared several such tables. The one you're handing me is one.

Q. Is this a table you prepared?

A. Yes, it is.

Q. Tell us what this is.

A. This is a table which records the votes received by Waller, the major white candidate in the gubernatorial election of 1971, for Evers, the black independent candidate, and for Judge Brady, a white independent candidate in 20 precincts in Hinds County, all of them in the city of Jackson, 10 of which are predominantly white and 10 of which are predominantly black.

[47] BY MR. PARKER: I ask that the Table be marked Exhibit 16.

(The said Table was marked Exhibit 16, Testimony of Dr. Henderson, and is appended hereto).

EXAMINATION CONTINUING:

Q. What does Exhibit 16 show? Before you answer that question, let me ask you this. How were the black precincts and the white precincts contained in Exhibit 16 selected?

A. The white precincts are those that census data indicates contain at least 98.3% white population, and those precincts identified as black precincts are precincts that census data indicate are at least 98.4% black.

Q. This table shows the votes received by each of these gubernatorial candidates?

A. It does.

Q. So this table does not necessarily contain information that's in Exhibit 8, but rather it's contained in the actual voting statistics, is that right?

A. That is correct.

Q. You've listed the white precincts and the vote for the white candidates and the black candidates, and the black precincts and the vote for the black candidate and white candidates. What does this table tell you, [48] as a Political Scientist. What does it show?

A. It tells me that white and black voting are mirror images of the others. That is to say, in this election, white voters overwhelmingly preferred a white candidate, Waller, and black voters overwhelmingly preferred the black candidate, Evers, and one can also put this by saying that approximately 95 out of every 100 white votes went to Waller and approximately 95 of every 100 black votes went to Evers.

Q. Does this data confirm or contradict your hypothesis that white voters tend to vote for white candidates and black voters tend to vote for black candidates when black and white candidates are running against each other in an election race?

A. It confirms it.

Q. You testified that the data in Exhibit 8 shows that for 1972 registration turnout declined in the black precincts and increased in the white precincts. Was that your testimony?

A. That is correct.

Q. Does this data confirm or contradict your hypothesis

that white voters tend to vote for white candidates and black voters tend to vote for black candidates?

[49] A. It is consistent with it.

Q. Would you explain that?

A. As I have indicated before, our extensive studies in voting behavior lead us to expect that generally voting will increase when the election is for President to a level higher than what it is in state or local races, and with respect to whites, this was true in '71, '72 and '73, that the absence of an effective possible choice in 1972 and in 1973 went hand and hand with a decline among blacks in registration and in turnout. That is to say specifically with respect to the '71 and '73 elections, the general rule about voting participation, registration, turnout and choice, is that voters are not fools; voters will vote when they believe their vote will count, and in all three elections voter participation by whites was as expected indicating, therefore . . .

Q. What was the expectation?

A. The expectation was that registration would be high, that turnout would be highest in '72 than it was in '71 and much lower in '73, and that because the expectations were met that whites therefore attitudinally must have believed their votes could count, but that among blacks the decline in registration and turnout [50] indicated that even in '73 when a black candidate was running, that there was a substantial belief among blacks that their vote would not count.

Q. What was the election system in which Meredith was running, do you know?

A. He was running in an at-large system.

Q. At-large, city of Jackson.

A. Yes.

Q. From your knowledge of the census data, what is the racial composition for the city of Jackson?

A. It is a majority white population.

Q. Do the turnout figures for '72 and '73 confirm or contradict your hypothesis that whites tend to vote for white candidates and blacks tend to vote for black candidates?

A. The turnout figures are consistent with that finding.

Q. I've asked you how strong was this tendency, and I would like to direct your attention to Exhibit 15, and I'd like for you to explain to us what Exhibit 15 is. Is Exhibit 15 a product of your work?



A. Yes, it is. Exhibit 15 is a computer printout employing some of the same data that was used in the preparation of Exhibit 8 and some additional census data. Specifically, one important figure on the median value of owner-occupied [51] housing in each of Jackson's precincts, and if I may direct your attention . . .

Q. Let me ask if you can identify this that I've just handed you.

A. Yes. This sheet is one that I prepared which helps to identify the data that was used in the preparation of the analysis of Exhibit 15.

BY MR. PARKER: I ask that this document be marked Exhibit 17.

(The said document was marked Exhibit 17, Testimony of Dr. Henderson, and is appended hereto).

#### EXAMINATION CONTINUING:

Q. Now that we have Exhibit 17 which explains the abbreviations, would you go on with your explanation of what Exhibit 15 consists of?

A. The heart of this computer printout is to be found on Pages 2 & 3, and the heading for each of those Pages is Matrix of Correlation Coefficient.

Q. Would you read the column headings across the top of page 2 and page 3? Would you tell us what they mean?

A. The column headed POP refers to the total population in each precinct. BLK is the total black population in each precinct. WHT is the total white population [52] in each precinct. DUS is the number of owner-occupied housing units in each precinct. VAL means the value of owner-occupied housing units. R71 is the registration figure, that is the number of registered voters as of June 29, 1971. 1R72, the number of registered voters as of March 31, 1972. 2R72, the number of registered voters as of October 10, 1972. BL18, the number of blacks 18 years and over. TL18, the total number of persons 18 years and over.

Q. Let me interrupt you there. Are the other abbreviations explained in Exhibit 17?

A. Yes, they are.

Q. What correlation scale or what scale of correlation coefficients did you use?

A. This correlation coefficient is known as the Pearson Product Moment Coefficient of Correlation.

Q. What is its scale?

A. It can have a range anywhere from -1 thru 0 to plus 1.

Q. Where do the significant correlations appear on the scale?

A. For these data and the number of cases involved, that is, 77, a correlation is clearly significant if it has a value of between .35 and 1.

Q. Plus or minus?

A. Plus or minus.

[53] Q. On page 2 are there any significant correlations or correlation coefficients which confirm or contradict your hypothesis?

A. I direct your attention first to the row which is labeled EVER.

Q. In the lefthand column?

A. That's right. It stands for the vote given to Charles Evers in 1971 and the column that is BLK which is the total black population in each precinct.

Q. What is that?

A. The value of the correlation coefficient of the Evers vote to the total black population is .95.

Q. How significant is that?

A. That is highly significant in that for this kind of relationship between a racial characteristic of the population and the vote for a black candidate. I do not recall ever seeing in the literature a higher correlation.

Q. What other correlations are significant on page 2?

A. If you look at the WALL, it stands for the votes given to the gubernatorial candidate William Waller and the column BLK for the same column, you will see that the value of the correlation coefficient is -.67.

Q. Is that significant?

[54] A. That, too, is significant. Then, if you will look at the row MCG you will see . . . and column BLK . . . you will see the correlation coefficient is .92 and the value of that is that it is lower than the correlation between the black population and the Evers vote.

Q. I notice that the correlation between WALL, the vote for Waller, and WHT, the white population, is 0.97. Is that a significant correlation?

A. That is the next one.

Q. How significant is that?

A. That is a highly significant correlation. It indicates

quite simply that white precincts overwhelmingly supported Waller, and this you can see by an examination of the specific data for the precinct returns.

Q. Do these same significant correlations confirm your hypothesis on page 3 of the printout?

A. Yes. You can find, for example, some of the same correlations. There is a consistency. This is really the same correlation matrix. It simply takes two pages to print it all out.

Q. Could you express for us, Dr. Henderson, in layman's terms what this all means, in terms of voting preferences [55] of blacks and whites in the 77 precincts of Jackson?

A. I can do that in two statements. First, the value of the correlation coefficient . . .

Q. I asked you to do it in layman's terms.

A. It indicates very simply that whites do tend to vote for whites, and blacks do tend to vote for blacks, and secondly, they do so overwhelmingly.

Q. What does this data show about the possibilities of black voters and members of the black population of Hinds County in these Jackson precincts forming political coalitions with whites to effectuate their interests?

A. All of these data taken together shows that the possibility of a coalition building in which whites and blacks will agree on a candidate is highly improbable.

Q. Directing your attention to Exhibit 8, what does your information contained in Exhibit 8 show, if anything, with regard to the portions of whites . . . proportions of eligible whites and proportions of eligible blacks who are registered to vote in the Hinds County Jackson precincts?

A. In all three points in time for which we have an indication of the number of registered voters, it indicates that [56] black registration is always lower than white registration, and on occasion substantially lower.

Q. That's a percentage of eligible persons?

A. Yes, it is.

Q. What does that exhibit show with regard to the percentage of turnout of registered and eligible white and black voters?

A. That, too, generally, the percent that turns out among whites tends to be higher than it is among blacks.

Q. At what stage is black participation in terms of registration and turnout the highest?

A. Most decidedly, it is highest in 1971 when in an election which was appropriately described as a race between two principal candidates, one black and one white.

Q. As a Political Scientist, do you have an explanation?

A. Yes. For my answer I must again refer back to the voting studies which are commonly known within the profession, and from these I say that blacks will participate whether it be through registration, through turnout, through choice, only when they believe that their participation can be effective. That is to say that it can make a difference on the outcome, and [57] that in these three races the circumstances of '72 and '73 for many considerations did not encourage, in fact, it discouraged, black participation.

Q. What are the implications of these results for multi-member legislative districts?

A. I would say that it provides a rather good illustration of the fact that a multi-member district system works against black participation when blacks constitute a minority. That demonstration, I think, is as clear in this data as it is in any data with which I am familiar.

BY MR. PARKER: I don't have any further questions; you may cross-examine.

#### DIRECT EXAMINATION

BY MR. MARX:

Q. As I understood you to say awhile ago in the '73 election blacks were, in effect, discouraged from voting by the imminent outcome of the election. Is this correct clarification of your thought?

A. Yes, I'd say it was.

Q. Was that the race in which James Meredith was involved in the municipal election?

A. Yes, it was.

[58] Q. Then your statement is, in effect, that the black community recognized Mr. Meredith as a losing candidate and chose not to participate?

A. Yes.

Q. With regard to your breakout, Exhibit 16, of the two 12-county districts, I understood the black precinct or that precinct was depicted as a black precinct, the one in which it had a 98.4% black population, the white population was what?



A. 98.3.

Q. In looking at Exhibit 8 as it compares to Exhibit 16, precinct 33, that particular precinct is shown as an all white, is that correct?

A. Yes.

Q. If then you discount those votes cast for the Democrat Waller and take the vote cast for the two Independent candidates, Evers and Brady, which of the two are greater?

A. The vote for Evers.

Q. Was greater in the all white precinct than it was for the other Independent candidate Brady?

A. Yes, it was.

Q. Precinct 34—is that another all white precinct?

A. Yes.

Q. Would that same characterization be true?

A. Yes, it is.

[59] Q. Precinct 35—is that again an all white precinct?

A. Yes.

Q. Again, the black candidate in the all white precinct, of the two Independents, again received a greater vote than the white independent [sic] candidate?

A. That's true.

Q. Does that affect at all your hypothesis with regard to black for black, white for white?

A. No, it doesn't, for this reason. Those three precincts happen to be precincts which are as Jackson precincts go among the wealthier precincts in Jackson and what it indicates is that there is also a very slight tendency for wealthier persons to be willing to vote for black candidates than the more common, poorer or average level of income persons in Jackson. Rather more to the point it is not really the difference between 33 votes for Evers . . . in Precinct 33 as opposed to 10 for Judge Brady, the other Independent candidate, that intrigues me so much as the fact that there were 620 votes for Waller as opposed to 33 votes for Evers and Precincts 33, 34 and 35 represent about the best performance that Evers could make in the 77 precincts in Jackson. He did better there so that his best performance was to get approximately 3 to 4 percent [60] of the vote cast.

Q. Would you attribute anything to the party leader?

A. Definitely not. That is a very good scholarly question because one of the alternative hypotheses which must be examined in a study of this kind is that the most significant

factor in operation here is something other than race, and I again go back to the same voting studies that I have referred to all along, if there is one factor that tends to be more influential than any other by far in elections in this country it is indeed party, and therefore since party seems to have no effect in these three elections studied here, that in itself is a significant finding.

Q. With regard to Exhibit 8, the population in a precinct, in any one, take no. 1 for instance, you have a population, the first three figures, a black population and then a percentage of blacks. I assume that was at a given point in time and that was the date of the publication from which you derived these figures?

A. That's correct.

Q. Then registration was at three different dates?

A. That's correct.

[61] Q. The percentage of eligible voters was also for three different dates?

A. That's correct.

Q. And the turnout was for three different dates?

A. That is correct.

Q. Do you have any way of determining whether or not the fluctuation in the percentage of population or if there was a fluctuation, whether or not it remained a constant as opposed to these three periods of time?

A. I have only a slight indication. Fluctuations are not at all reflected in this data. What I did in the course of my study was to go to the City Planning Board and find out from them where population movement had occurred in this period of time and from the conversations I had with them and from the data that I examined, I was willing to offer in the study I made that population fluctuations were not significant except in one small instance. If you will look at the very peculiar figure for Precinct 34, you will see that the percent eligible voters registered in 1972 was 107% which is clearly an impossibility. That, however, does not represent population fluctuation. I indicated that the reason for using 77 precincts was to enable comparisons over the same population base in three elections. [62] In one instance where the new numbered precincts were added or created in the city of Jackson, a small population—the number of which I cannot determine precisely—were added from what had before been a named precinct to numbered precinct 34,

and that population figure of 1646 was different by virtue of the movement of the boundary line of the precinct and that is the only one of the 77 precincts that had a boundary change in this period.

Q. As a student of voting attitude in this country, specifically in Mississippi, is the 99% registration figure, is that 99% participation in the voting scheme; is this usual or unusual?

A. In some instances here I would regard it as unusual in that it's not significantly in contradiction to what occurred elsewhere, because the registration figures here are most likely to be high in those precincts which are white and have a high educational level and a high income level and that the pattern is consistent in all 77 precincts.

Q. Following that thought, is an 85.4% turnout, is this just an extension of that same thought?

A. I think it is. The only thing I would add is that it is . . . by saying that it is not shall we say unexpected, [63] I don't want to underplay its significance because I have offered the generalization from the voting studies that voters tend to participate when they believe their votes will count, and that they will participate only if they believe their votes will count or if their votes need count, therefore, these high participation figures indicate that in those precincts with high registration and high turnout, those people are very much concerned with the outcome of elections.

Q. What would it mean to me as a voter to cast a vote for a candidate, in theory at least, why would I vote for a particular candidate?

A. Most generally you vote for a candidate because you believe that your vote will make a difference.

Q. Because I believe my vote would make a difference in the outcome of that election? Then I would vote for my choice of a candidate because I would think or tend to think that my vote would affect the outcome of the election, in essence?

A. Yes.

Q. And if I thought my vote was lost, that it was a futile gesture for me to cast a vote for a particular candidate, the likelihood is that I would not vote?

[64] A. That is correct.

Q. Again, back to Exhibit 16 and those votes cast for Independent Brady, both in the black precincts and in the white precincts, does this affect that theory at all?

A. No.

Q. There was then in the black precincts, more specifically the highest one, I believe, was Precinct 20, ten votes cast for the Independent Brady and following the theory those ten individuals felt they could bring the candidate Brady to election?

A. Yes.

Q. As I understand Exhibit 8, the first precinct again, in 1973 there was a 9.6% of those eligible to vote who actually voted, is that correct?

A. That is correct.

Q. And that information came from the General Election of June 5 or Exhibit 14?

A. Yes.

Q. Precinct 1 on Exhibit 14 shows 130 total votes cast, is that right?

A. Right.

Q. So then that should be 9.6% of those registered, is that correct?

[65] A. No. It should be 9% of those eligible.

Q. Of those eligible to vote, and if there were only 211 registered how do we square 130 as 9.6% with 211?

A. You don't. You're expressing that as a percentage of 674.

Q. Of the total number of persons eligible 18 years of age and over, eligible in theory but not in practice?

A. Right, eligible in theory.

Q. If the figures for 18 and over, that total figure of 674 in precinct 1, again comes from the dated publication here?

A. Yes.

Q. And it would be based upon the 1970 Census?

A. Yes.

Q. So those 17 year [sic] of age in 1970 who would be in one class of persons, by the time the first registration occurred on Exhibit 8, which would be 1971, they would then fall in another category or 18 years of age and over?

A. That's correct.

Q. Is anything taken into account for this growth? Percentage-wise?

A. No, I saw no need to.

[66] Q. It was of no particular significance

A. I did not find that it was.

Q. If a black man chose to vote for a white in either of these three races, would that alter your statistics such that



it would have an influence upon your hypothesis? Maybe, I can make myself a little clearer. The percentage of the population that is black is 61.2% for precinct 1. The total turnout for any of the three elections or the total percent of eligible voters registered in either of the three elections all could in fact be because of their numbers within the white population, could they not?

A. Almost. They could almost all be.

Q. Then the fact that this was the turnout or the turnout as reflected on the exhibit doesn't really tell us anything with regard to black versus white, does it?

A. Not if we refer only to the votes and the other figures for Precinct 1, but at no point am I willing to argue for my generalizations on the basis of data for one precinct only.

Q. If you took the second precinct and did the same thing it would be classed as a black precinct?

A. Yes.

[67] Q. The two higher figures indicate a 28 and 24 percent in the third race. Those could totally exclude the white?

A. Yes, easily.

Q. In fact, this would be a possibility in each of these cases where the figures would admit of such, not just that one precinct; but if the figures admit of such that would be a distinct possibility?

A. Yes, it would.

Q. So what we must in fact do is suppose that a black will vote for a black and not a white, and that a white will vote for a white and not a black?

A. That is what the voting studies indicate will happen and the data is consistent with that.

Q. We have to pre-suppose that to make these figures hold true?

A. In some particular instance you would, but one of the interesting things about these data is that 52 of 77 precincts are, by my definition, white or black precincts and only six of them have a white or black population, that is 20% or more one or the other and that the error that could result from this, what you call this pre-supposition, is in fact something that could also occur because the people checked the [68] box on the ballot and because the data ruled overwhelmingly, that is because there are so many precincts, 52 of 77, that are 98.3% white or black, the

evidence to me of the pattern of white and black voting is quite conclusive.

Q. In the Political Science area, I think white flight is a common denominator in these types of studies, is it not? If you take the whole demography of a town or municipality, of that which includes these 77 precincts or any given area. I'm thinking now of the movement of vote. Is not white flight a fact?

A. You mean population?

Q. Population movement.

A. There is some, to be specific, in Jackson, places like Ridgeland and Flowood, yes.

Q. Is this taken into account in the statistics with regard to the total population in different time frames?

A. No. As I indicated when I got what data was available, and candidly, it's not the best in the world. It's not in the same league with using these quite firm census figures they may indeed be removed from three years in time from '73 to '70. It did not seem to me [69] that it would make a significant difference in the outcome of the election because the population shifts within precincts overall were not significant.

Q. Total population shift?

A. Right.

Q. Whether or not this became a totally black precinct as opposed to a previously 60-40 precinct, either way, or a total either way.

A. There is nothing in the available data from the Planning Board that indicated anything like that happened. If something of that kind had happened, or, for example, if a great many precincts had been like Precinct 1, that would have raised serious problems for a study of this kind.

Q. I'd like to go back to the earlier discussions of the plans themselves. I believe you chose as an overall goal population equality?

A. That's correct.

Q. In drafting your Senate plan, this was the sole consideration, population equality, the plan which you said was the better Senate plan?

A. Well, there is only one Senate plan.

Q. And your goal was population equality?

A. That was the major goal.

[70] Q. Then you drew two House plans and again popu-

lation equality was the goal of one, but something else you gave consideration to for the second plan.

A. That's correct.

Q. That was the size of the district?

A. That is correct.

Q. How did the size of the district reflect upon population equality? How did they weight with the other? How did one weight with the other?

A. I don't understand.

Q. If in fact population equality is our goal and a major goal, then how did you lessen that goal? What would be the correlation between or the difference in the two plans when you injected another goal, smaller districts?

A. I'm still not certain I understand the question, but let me try to answer. I was given what I would call program parameters in my instructions—Mr. Parker refers to them as criteria. In the process of doing my work I prepared literally dozens of plans, all of which, and as I indicated, I could have developed I know for certain, hundreds of plans that met the goal of equalizing population among districts better than the State plan and when I had done these computer runs, [71] the results indicated there was one rather than two, three, four or five plans that met both the criteria of best population fit and produced smaller as opposed to larger districts, but in the case of the House the results produced two plans, one of which had a lower variance but less well met the second criteria of preferred smaller districts to larger districts. The second plan had a slightly larger variance but met the second criteria of preferring smaller to larger districts better than the first one and following my instructions I was obliged to provide Mr. Parker with two plans for the House.

Q. Then these three plans are the three plans that you came forward with following Mr. Parker's instructions, and you did not give him benefit of all the other plans you developed, simply these three as meeting those criteria?

A. No. I generally described what other plans might be, what they would look like and assured him that my computer runs indicated that these were the three best plans.

Q. Did you give any consideration to the existing districts as they are now in the State plan?

[72] A. No. I specifically rejected that. There are three main types of computer programs which are used in dis-

tricting. One of them is a plan which has a mathematical model behind it. The second type is one like mine which simply uses counties or some other electoral units as building blocks. The third type of computer plan takes an existing plan and says can it be done better, and I had that option but I had to exclude both the first and third possibility because of the limitations of the size of the computer that I was working with.

Q. That was my thought with regard to the 1130. What was your data bank capacity?

A. We had a core storage of approximately 5200 usable words. We had an additional disc storage capacity of another half million words, and the storage limitation is not a limitation that prevents me from including as much data as I want, but it does mean that the more that I have to store on discs, the longer it takes the machine to design the plan, so we're talking about not a storage limitation quite as much as we are about how many hours of machine time is going to be required.

Q. Then the reason for not comparing the existing plan was simply time economic?

[73] A. That was part of it, but just as well there is no particular advantage in terms of final product in using any one of these three varieties of programs one over the other.

Q. One over the other . . . no particular advantage to either?

A. No. As I'm saying . . . for example, if I had used either of the other two methods I am certain that I would have produced the same plans.

Q. Did you try either of the others?

A. No. I did not.

Q. Did you give any consideration in the composition of your districts to having a district or the people of a district vote on both a Senator and a Representative/or were the two plans developed distinctly apart from one another?

A. They were in fact developed separately.

Q. So that the fact that I might vote on a Senator in one district and a Representative in another district had no place whatsoever in the study?

A. Right. In my language that is not one of the parameters of the program.

Q. You made the statement earlier with regard to the



fact that multi-district could work to the detriment of any cohesive minority. I believe your statement was [74] it can work to the detriment of?

A. Yes.

Q. Did you do any studies with regard to any particular county where this had in fact worked to the detriment of, or are we dealing strictly in theory?

A. No. I think that was demonstrated by the Jackson study. When I defined my three research interests, that was the second of the three interests.

Q. And the detriment was what?

A. The detriment was specifically, and this is new information I've not included this afternoon as one of my conclusions but it is a part of the study, that in the 1973 election white voters' preferences were perfectly realized in the election of Shanks and Kelly because they tended to prefer Shanks above Kelly. Black preferences were unperfectly realized because their preferences were first for Meredith, then almost equally for Kelly and for the City Manager . . . let me get his name . . . Allen. And their third choice was Shanks.

Q. Mr. Meredith was actually a candidate for Mayor, was he not?

A. In '73, no, Commissioner.

[75] Q. Your statement is that it has in fact worked to the detriment, not only can but did?

A. That's correct.

Q. But it is limited to Hinds County and more specifically, the Jackson City election?

A. In my study to the 77 precincts and the election of '73.

Q. But so far as the other 81 counties or the remainder of this one county, Hinds, this was not taken into consideration, we just extend that theory?

A. Not in my studies, no. That's correct.

Q. If in fact this cohesive minority worked to control an election, then what we would have to put it in lay terminology would be minority rule of the public majority rule, would it not?

A. Not in the context of my statement. I said, you see, that it works to the detriment of the minority and therefore unless the minority becomes a majority, it cannot realize its preferences. In the multi-member districts the only way around the probable next to certain outcome is either for

the minority in some fashion by population change to become the majority or to redistrict so as to create single member districts out of a previously multi-member district. [76] Q. In effect one of the goals of redistricting was simply to ensure that the minority will control some districts?

A. By becoming a majority.

Q. By becoming a majority?

A. Correct.

Q. The norm that you used for each of these districts, I believe you said you developed that aside from the computer and simply placed that in the computer as a fact?

A. That's plugged in as one of the articles of data. The total population and the number of seats in the computer does the calculating.

Q. This was all keypunched, I presume?

A. Yes.

Q. Put in by keypunch. You had this done?

A. I did this.

Q. You did it yourself?

A. I did all of this work myself for the obvious reason that I then don't therefore have to vouch for the accuracy of my keypunching.

Q. Your goal at the outset of preparing these plans I would be safe, I suppose, in saying was to simply create something less than the State plan with regard [77] to variation so we shot at the State plan without doing a study of comparison between the two, the plan you developed and the State plan, but yet we were shooting at the State plan?

A. I can agree with that statement if you take out the part about without making a comparison of the two plans.

Q. I was simply going back to the methodology with regard to block versus study or comparison or the third method that you developed?

A. Yes, in that context, it's true.

Q. What language did you use, you said you did not use Fortran in preparing your program. What language did you use?

A. I did use Fortran.

Q. You wrote your own program?

A. Yes.

Q. In the other cases in which you testified, you testified in each in the interest of the plaintiff?

A. No. In that Federal District Court I testified on behalf of the plaintiff. In the Rankin County case I testified for the defendant.

Q. Who was the defendant?

A. Could I supply that later? I don't remember the names.

[78] Q. Who were the attorneys?

A. The attorney in the Rankin County case was Sebastian Moore. In the earlier case that I referred to, which I styled the Jackson Swimming Pool case, I testified on behalf of the plaintiff.

Q. In the development of programs and I believe we are attempting to portray attitude in the sense of a numerical value. Is that not what we are doing with regard to black voting black and white voting white?

A. We're using figures, voting figures as a representation as behavior that indicates an attitude, yes.

Q. Indication of an attitude?

A. Yes.

Q. I am not at all theory minded with regard to this, but it seems to be human nature that attitudes are known to change even in a moment by a simple act or fact. Is this not a good statement or thought?

A. To that I would respond that individual persons do change attitudes sometimes over a period of time, several years for example, their attitudes can change substantially when it is a matter of political attitudes, and even more when it is a matter of political behavior. The behavior tends to change much less than attitudes.

[79] Q. In other words, specifically with regard to the Jackson Swimming Pool situation, we have come 180 degrees from your first testimony from that first case, not from your testimony, but from that first case. That was the closing of the swimming pools, was it not?

A. That is correct.

Q. And I believe there now exists in Jackson a reopening of the swimming pools?

A. That's correct.

Q. So we're 180 degrees in position?

A. In that sense, public policy has changed.

Q. This is a political response, is it not?

A. It may represent a response to a constituent and our understanding of the factors that influence public policy

decisions is that three factors in particular are important. One being demands from the constituency, one being the, what I would call, internal values of the decision-maker himself. Parenthetically, we do know of cases. There are cases around now in which a policy-maker has made a decision which he knows his constituents cannot approve of and even though he may be interested in the election, he knows that by making that public commitment he's going to be defeated, and [80] then the third major source in politics, generally, is the influence from recognized groups whether they be special interest groups whose interests may be much narrower and indeed in contradiction to those of the majority of the constituency or a broader program for an interest group, that known as the political party. That is to say where we have political party representation, Democrats do tend to take different policy positions from Republicans, so there are three sources. In Jackson, I do not know; perhaps someone does, but the decision to reopen the swimming pools may, in part, be a reflection of the change in constituency attitudes, I admit that freely, but it could also be a response to changes in organized influence including, for example, the anticipated possibility of further lawsuits and court decisions and it could be simply a reflection of the change in internal attitudes of the policy-makers who are in Jackson City government today, which is to say it may, in part, reflect the difference in Russell Davis, the person, and Allen Thompson, the person.

Q. It could in fact simply be a white candidate thinking prospectively courting a black vote?

A. That's possible.

[81] Q. Then in fact if the white candidate were to seek the black vote, the fact that he chose to run in a district which was predominantly black would not necessarily foreclose his election, simply because he was white?

A. No. We would have to consider more circumstances of the case than that.

Q. Than simply black be black and white be white?

A. That again changes the circumstances. If the evidence from this study if the indication is that we have a straight two-way race, a black against a white, the probability—in the black majority district—is that the black is going to win.

Q. Or alternatively to extend that, if it were a white be



white, blacks would not participate, or if it were black be black, the white would not participate?

A. Or at least they would participate at a lower rate.

Q. Significantly lower?

A. Significantly lower.

Q. The only other question I have with regard to the Pearson Product Moment and its level of significance, the standard level of significance I believe you said was .35?

A. For this data, but primarily for the fact that we are [82] dealing with 77 cases. If you consult the table in the back of a statistic's book you will find that for 77 cases the significant level at what's called the .01, one case in a hundred by chance level, is about .3478 or something like that.

BY MR. MARX: I have no further questions.

#### DIRECT EXAMINATION

BY MR. PARKER:

Q. In Exhibit 16 is it difficult to tell who the candidate was who was favored by the white voters in the majority of white precincts?

A. Not at all difficult.

Q. Who was the candidate favored by the majority of white voters?

A. William Waller.

Q. Exhibit 8—in determining the population of the Jackson voting precincts, what base census data did you use? Just give us the name of the publication or source of the data.

A. The source of the data is Block Statistics, the particular column is that labeled Total Population and it is given for each block in the city.

[83] Q. You used the census publication giving the block statistics for each numbered block within the city of Jackson?

A. That is correct.

Q. Do you know whether or not these block statistics are updated for 1971, 1972 or 1973?

A. They have not been.

Q. Do you know of any source of block data giving accurate and reliable population statistics by race and for 18 over or under for 1971, 1972 or 1973 for the census blocks for the city of Jackson?

A. I have looked and I have found none.

Q. Therefore, is it true that the census data and block data is the most accurate and reliable population data source?

A. I believe it is.

Q. You testified in the Rankin County case. What was the race of the defendant in that case?

A. White.

Q. So it's not true that you only testify for black parties in litigation?

A. It hasn't been.

BY MR. PARKER: No further questions.

[84] [Certificate of Deponent Omitted]

[85] [Court Reporter's Certificate Omitted]

[Exhibits Omitted]

PLAINTIFF'S EXHIBIT P-9 MAY 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNOR, ET AL.,  
PLAINTIFFS,

VS.

WILLIAM E. WALLER, ET AL.,  
DEFENDANTS.

Civil Action No. 3830

Washington, D.C.  
November 13, 1974

Interrogatories of

HONORABLE J. STANLEY POTTINGER,

called upon to complete interrogatories propounded on behalf of the plaintiffs, pursuant to agreement, under the guidance of Gerald Jones, Voting & Public Accommodations, Civil Rights Division, United States Department of Justice, Washington, D.C., 20530, and transcribed by Helen A. Brown.

[2] For the Plaintiffs:

LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
UNDER LAW

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For the Honorable J. Stanley Pottinger:

UNITED STATES DEPARTMENT OF JUSTICE  
By: GERALD JONES, Chief  
Voting & Public Accommodations  
Civil Rights Division  
Washington, D.C. 20530

### CONTENTS

WITNESS:	DIRECT	CROSS
J. Stanley Pottinger	3	—

### EXHIBITS

Pottinger Deposition Exhibit No.	For Identification
1 (Copy of letter of objection, September 10, 1971)	J

[3] WHEREUPON,

J. STANLEY POTTINGER,

was called upon to supply Answers to Interrogatories propounded on behalf of the Plaintiffs.

### QUESTIONS PROPOUNDED ON BEHALF OF PLAINTIFFS

Q.1 State your name and address.

A. J. Stanley Pottinger, Department of Justice, Washington, D.C. 20530.

Q.2 State your present position.

A. Assistant Attorney General, Civil Rights Division, Department of Justice.

Q.3 State your official duties and responsibilities regarding the enforcement of the Voting Rights Act of 1965, including your duties with regard to the designation and assignment of Federal examiners and observers, the submission of enactments, procedures or practices affecting voter registration and elections, and record-keeping.



A. My duties and responsibilities in connection with the enforcement of Sections 6 and 8 of the Voting Rights Act of 1965, 42 U.S.C. 1973, consist of evaluating the need for, and recommending to the Attorney General the designation of counties for, the appointment of federal examiners and recommending from time to time the utilization of examiners [4] for listing purposes and the utilization of observers as the need arises.

My duties and responsibilities in connection with the enforcement of Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973(c), include making, except in exceptional circumstances, the determination, on behalf of the Attorney General, to object or not to object and to take such other action as may be required by the Voting Rights Act.

My duties and responsibilities concerning the enforcement of the Voting Rights Act of 1965 include keeping records in the ordinary course of business with regard to the submission of enactments, procedures or practices affecting voter registration and elections.

Q.4 In your answers to each of the following questions, state in each instance the basis of your information, if personally known or if ascertained from the records of the Department of Justice or the Civil Rights Division over which you have custody and control, and if the answer is ascertained from such records, state in each instance whether these are ordinary business records within the meaning of 28 U.S.C. §§ 1732 and 1733.

A. The basis for the answer to questions 7 through [5] 10, 12 through 16, 19 through 32 and 34 through 37 are the records of the Civil Rights Division. These records are ordinary business records within the meaning of 28 U.S.C. Sec. 1732 and 1733. The answers to questions 5, 6, 11, 17, 18 and 33 are based on personal knowledge.

Q.5 State whether or not the United States Attorney General has delegated to the Assistant Attorney General, Civil Rights Division, any duties and responsibilities under Section 6 of the Voting Rights Act of 1965 regarding the appointment of Federal examiners, and if so, state those duties and responsibilities.

A. Yes. My duties and responsibilities in connection with enforcement of Section 6 of the Voting Rights Act of 1965, 42 U.S.C. 1973 consist of evaluating the need for, and recommending to the Attorney General the designation of

counties for, the appointment of federal examiners and recommending to the Attorney General from time to time the utilization of such examiners for listing purposes as the need arises.

Q.6 State whether or not, as Assistant Attorney General, Civil Rights Division, you have custody and control of the records of the Department of Justice and the Civil [6] Rights Division with respect to the assignment of Federal examiners pursuant to Section 6 of the Voting Rights Act of 1965.

A. Yes.

Q.7 Based on your own personal knowledge and the records of the Department of Justice and the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or the Assistant Attorney General, Civil Rights Division, the present officials or any of their predecessors, certified any political subdivisions within the State of Mississippi for the appointment of Federal examiners to perform duties pursuant to the Voting Rights Act of 1965?

A. Yes.

Q.8 If so, state which political subdivisions of the State of Mississippi have been so designated, the date of each such designation, and whether Federal examiners were assigned to each such political subdivision to list eligible voters.

A. County	Date of Designation
Amite	3-23-67
Benton	9-24-65
Bolivar	9-24-65
[7] Carroll	12-20-65
Claiborne	4-12-66
Clay	9-24-65
Coahoma	9-24-65
De Soto	10-29-65
Forrest	6-1-67
Franklin	3-23-67
Grenada	7-20-66
Hinds	10-29-65
Holmes	10-29-65
Humphreys	9-24-65

<i>County</i>	<i>Date of Designation</i>
Issaquena	6-1-67
Jasper	4-12-66
Jefferson	10-29-65
Jefferson Davis	8-18-65
Jones	8-18-65
Kemper	10-31-74
Leflore	8-9-65
Madison	8-9-65
Marshall	8-5-67
Neshoba	10-29-65
[8] Newton	12-20-65
Noxubee	4-12-66
Oktibbeha	3-23-67
Pearl River	4-29-74
Rankin	4-12-66
Sharkey	6-1-67
Simpson	12-20-65
Sunflower	4-29-67
Tallahatchie	8-14-71
Walthall	10-29-65
Warren	12-20-65
Wilkinson	8-5-67
Winston	4-12-66
Yazoo	10-28-71

All counties have had examiners assigned for listing purposes except Bolivar, Kemper, Sunflower and Yazoo.

Q.9 State the justification or justifications for the designation of such political subdivisions for the appointment of Federal examiners and for the appointment and assignment of Federal examiners to each such political subdivision.

[9] A. On the date listed as the date of designation for each political subdivision, except Pearl River, listed in response to Question 8, *supra*, the Attorney General certified, pursuant to Section 6 of the Voting Rights Act, 42 U.S.C. 1973d, that in his judgment the appointment of examiners was necessary to enforce the guarantees of the Fifteenth Amendment of the Constitution of the United States in that particular subdivision. On April 29, 1974, the Attorney General certified, pursuant to Section 6 of the Voting Rights Act, 42 U.S.C. 1973d, with respect to Pearl

River County, that he had received complaints in writing from 20 or more residents of Pearl River County alleging that they had been denied the right to vote on account of race or color under color of state law and that he believed such complaints to be meritorious.

Q.10 State the total number of persons, by race, listed by Federal examiners for each such subdivision, and if subsequently persons have been removed from such listings, state for each political subdivision the number of persons, by race if possible, who have been so removed.

A. According to information furnished the Department of Justice by Civil Service Commission the following numbers of persons have been listed and removed from federal [10] listings in Mississippi:

<i>County</i>	<i>Listed White</i>	<i>Listed Black</i>	<i>Removed</i>
Amite	11	453	6
Benton	0	538	19
Carroll	0	926	3
Claiborne	8	1,410	180
Clay	47	1,476	18
Coahoma	92	4,577	843
DeSoto	298	1,228	51
Forrest	150	966	127
Franklin	8	77	12
Grenada	2	1,510	10
Hinds	1,012	12,336	138
Holmes	17	4,684	592
Humphreys	33	2,235	424
Issaquena	5	67	24
Jasper	8	665	33
Jefferson	0	2,070	2
Jefferson Davis	4	1,132	6
Jones	51	2,357	390
Leflore	153	8,579	1,558
Madison	150	8,013	470
[11] Marshall	6	98	0
Neshoba	27	764	47
Newton	2	731	22
Noxubee	5	2,355	6
Oktibbeha	112	288	8
Pearl River	9	172	0
Rankin	136	1,011	23



<i>County</i>	<i>Listed White</i>	<i>Listed Black</i>	<i>Removed</i>
Sharkey	10	390	8
Simpson	25	1,464	153
Tallahatchie	1	131	0
Walthall	3	1,362	154
Warren	307	1,720	58
Wilkinson	52	100	11
Winston	0	58	18

Q.11 State whether or not, as Assistant Attorney General, Civil Rights Division, you have custody and control of the records of the Department of Justice and the Civil Rights Division with respect to the assignment of Federal observers to Mississippi subdivisions pursuant to Section 8 of the Voting Rights Act of 1965.

A. Yes.

[12] Q.12 Based on your own personal knowledge and the records of the Department of Justice and the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or the Assistant Attorney General, Civil Rights Division, the present officials or any of their predecessors, requested the assignment, which assignment was made, of Federal observers to any Mississippi political subdivisions to perform duties pursuant to the Voting Rights Act of 1965?

A. Yes.

Q.13 If so, state which political subdivisions Federal observers have been assigned to and the dates of the elections so observed by such Federal observers.

A. *Election*

June 7, 1966

*County*

Benton  
Carroll  
Claiborne  
Clay  
DeSoto  
Holmes  
Humphreys  
Jasper  
Jefferson  
Jefferson Davis  
Jones  
Leflore

[13]

*Election*

November 8, 1966

*County*

Madison  
Noxubee  
Benton  
Carroll  
Claiborne  
Clay  
DeSoto  
Holmes  
Humphreys  
Jefferson  
Leflore  
Madison  
Neshoba  
Noxubee  
Rankin  
Winston  
Greenwood  
(Leflore)  
Grenada

[14] November 22, 1966

February 13, 1967

Special Election

February 27, 1967

Run-off

May 2, 1967

August 8, 1967

Grenada

Sunflower

Amite

Benton

Carroll

Claiborne

Coahoma

August 8, 1967

Primary

DeSoto

Franklin

Forrest

Grenada

Hinds

Holmes

Humphreys

Issaquena

Jasper

Jefferson

Jones

Leflore

Madison

[15]

<i>Election</i>	<i>County</i>
	Marshall Neshoba Noxubee Rankin Sharkey Simpson Sunflower Warren Wilkinson
August 29, 1967 Run-off	Benton Carroll Claiborne Coahoma Grenada Holmes Humphreys Jefferson Leflore Madison Marshall Neshoba Noxubee Wilkinson
[16]	
November 7, 1967	Bolivar Carroll Holmes Issaquena Sunflower Wilkinson
February 27, 1968 Special Congressional for 3rd Congressional Dist.	Amite Claiborne Franklin Hinds Jefferson Warren Wilkinson
March 12, 1968 Run-off	Amite Claiborne

<i>Election</i>	<i>County</i>
[17] March 12, 1968 (cont.)	Franklin Hinds Jefferson Warren Wilkinson
	<i>County and Municipalities</i>
June 4, 1968 Municipal Elections	Centerville (Wilkinson) Woodville (Wilkinson) Lexington (Holmes) Greenwood (Leflore) Belzoni (Humphreys) Tchula (Holmes) Pickens (Holmes) North Carrollton (Carroll) Shelby (Bolivar) Friars Point (Coahoma) Edwards (Hinds)
[18]	
November 5, 1968	Amite Benton Claiborne Holmes Issaquena Jefferson Leflore Marshall Noxubee Sharkey Wilkinson
May 13, 1969	Amite



<i>Election</i>	<i>County</i>
May 13, 1969 (cont.)	Coahoma
	Hinds
	Holmes
	Humphreys
[19]	Jefferson
	Leflore
	Marshall
	Sunflower
	Wilkinson
June 3, 1969	Amite
General Election	Bolivar
	Carroll
	Hinds
	Holmes
	Humphreys
	Madison
	Wilkinson
November 18, 1969	Leflore
November 3, 1970	Amite
	Bolivar
	Coahoma
	Holmes
	Madison
	Marshall
	Sunflower
	Wilkinson
[20] December 7, 1970	Claiborne
Port Gibson	
August 13, 1971	Amite
Primary	Benton
	Coahoma
	Issaquena
	Madison
	Marshall
	Noxubee
	Sharkey
August 24, 1971	Issaquena
Run-off	Jefferson Davis
	Marshall
	Noxubee
September 23, 1971	Humphreys
Special	
November 2, 1971	Benton

<i>Election</i>	<i>County</i>
November 2, 1971 (cont.)	Bolivar
	Claiborne
	Clay
	Coahoma
	Holmes
[21]	Humphreys
	Leflore
	Madison
	Marshall
	Noxubee
	Oktibbeha
	Sunflower
	Tallahatchie
	Wilkinson
	Yazoo
August 24, 1972	Humphreys
Special	
Run-off	
November 7, 1972	Claiborne
	Issaquena
	Madison
	Wilkinson
	Issaquena
November 16, 1972	
April 1, 1974	
Yazoo City	Yazoo
Municipal Election	
May 28, 1974	Marshall
Local Special	
Election	
November 5, 1974	Kemper

[22] Q.14 State the justification or justifications for the request and assignment of Federal observers to each such political subdivision.

A. For each of the above listed elections, the Attorney General determined that the presence of observers pursuant to Section 8 of the Voting Rights Act of 1965, 42 U.S.C. 1973f, was necessary in order to insure the protection of Fifteenth Amendment rights.

Q.15 State whether the Department of Justice, Civil Rights Division, has since August 6, 1965, filed any lawsuits to protect the voting rights of citizens in the State of Mississippi.

A. Yes.

Q.16 If so, state the caption, style, or title of each such lawsuit, the civil action number, and the district in which each such lawsuit was filed.

A.

Case	C.A. #	District	Date
<i>United States v. State of Mississippi</i>	3791	S.D. Miss.	8-7-65
<i>United States v. State of Mississippi</i>	3312	S.D. Miss.	1-10-66
<i>United States v. Executive Committee of the Democratic Party of Leflore County</i>	GC6632	N.D. Miss.	2-11-67
[23] <i>United States v. Shannon</i>	DC-69-28-K	N.D. Miss.	5-17-69
<i>United States v. Hinds County Board of Supervisors</i>	4983	S.D. Miss.	9-17-71
<i>United States v. Marshall County Board of Election Commissioners</i>	WL-7153-K	N.D. Miss.	10-19-71
<i>United States v. Humphreys County Board of Election Commissioners</i>	CC71-141-S	N.D. Miss.	12-28-71
<i>United States v. Leake County Board of Election Commissioners</i>	4771	S.D. Miss.	10-28-70
<i>United States v. Marshall County Board of Election Commissioners</i>	WC-73-28-K	N.D. Miss.	1-26-73
<i>United States v. Callicutt and County Board of Election Commissioners</i>	WC-72	N.D. Miss.	4-6-73
<i>Stewart and United States (Intervenor) v. Waller, et al.</i>	73-42-S	N.D. Miss.	8-6-73
<i>United States v. Board of Supervisors of Warren County, et al.</i>	73-W-48N	S.D. Miss.	10-31-73
<i>United States v. Kemper County</i>	E74-65C	S.D. Miss.	11-1-74

Q.17 State whether or not the United States Attorney General has delegated to the Assistant Attorney General, Civil Rights Division, any duties and responsibilities under [24] Section 5 of the Voting Rights Act of 1965 for passing on submissions pursuant to that section, and if so, state those duties and responsibilities.

A. Yes, my duties and responsibilities with regard to passing on submissions pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973(c), include making, except in exceptional circumstances, the determination, on behalf of the Attorney General, to object or not to object.

Q.18 State whether or not, as Assistant Attorney General, Civil Rights Division, you have custody and control of the records of the Department of Justice and the Civil Rights Division with respect to submissions affecting voter registration and elections pursuant to Section 5 of the voting Rights Act of 1965.

A. Yes.

Q.19 Based on your own personal knowledge and the records of the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or have you, or any of your predecessors on behalf of the United States Attorney General, objected pursuant to Section 5 of the Voting Rights Act of 1965 to any legislation enacted by the Mississippi Legislature affecting voter registration and elections?

[25] A. Yes.

Q.20 If so, identify each such objected to enactment by title, Code number, and/or bill number, and if legislation amending preexisting statutes, the Code number of the statute or Code section so amended, and the date of each such objection.

A. Title: Unentitled

Code # and/or bill number: H.B. 68 (1966), Code #3260

Amended Code Section: § 3260 Code of 1966

Date of Objection: May 21, 1969

Title: An Act Providing Use of At-Large Election for Counties.

Code # and/or bill number: H.B. 223 (1966), Code #2870

Amended Code Section: § 2870 Code of 1942

Date of Objection: May 21, 1969

Title: An Act to Amend § 2870, Code of 1942



Code number and/or bill number: H.B. 643 (1971) Code #2870

Amended Code Section: § 2870, Code of 1942

Date of Objection: September 10, 1971

Title: Appointment of County Superintendent of Education in Specific Counties

Code Number and/or Bill Number: H.B. 573, 1966

Amended Code Section: § 6271-08, Code of 1942

Date of Objection: May 21, 1969

[26] Title: Qualification of A Candidate for Office

Code # and/or bill number: H.B. 362 and 363 (1970)

Amended Code Sections: H.B. 363 amended §§ 3120 and 3260, Code of 1942; H.B. 362 amended §§ 3107-04, 3108.5, 3118.5, 3118.7, 3121, 3123, 3152, 3153, 3209.5, 3226, 3237, 3239, 3261, 3263, 3279, 3280, 3281, 3286.5, 3313.5 and 3315 Code of 1942 and repealed §§ 3105, 3107-08, 3107-05, 3107-07, 3108 through 3119, 3124 through 3138, and 3140 through 3157, Code of 1942.

Date of Objection: April 26, 1974

Q.21 State whether or not each of the Section 5 objections listed in response to Question No. 20 above is a final decision, or whether any of them were withdrawn, rescinded, or overturned as a result of further administrative proceedings.

A. Each objection listed above is a final decision.

Q.22 State whether or not with regard to any of the Section 5 objections listed in response to Question No. 20 above, the State of Mississippi, the chief legal officer of the State of Mississippi, or any other qualified official has filed an action in the United States District Court for the District of Columbia for a declaratory judgment that such enactment does not have the purpose and will not [27] have the effect of denying or abridging the right to vote on account of race or color. If so, state the disposition of each such action.

A. No such action has been filed for any above listed objection.

Q.23 State whether or not the attached document, designated Exhibit A herein, is a true and correct copy of a Section 5 objection lodged on behalf of the United States Attorney General to the 1966 amendments to Miss. Code Ann. Sections 2870, 3260, and 6271-08 (1956 Recomp.), which legislation was enacted by the Mississippi Legislature

and submitted to the United States Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

A. Yes.

Q.24 State whether or not the attached document, designated Exhibit B herein, is a true and correct copy of a Section 5 objection lodged by you on behalf of the United States Attorney General to House Bills 362 and 363, Mississippi Legislature, 1970 Reg. Sess., which legislation was enacted by the Mississippi Legislature and submitted to the United States Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

[28] A. Yes.

Q.25 If the United States Attorney General, or you or any of your predecessors on behalf of the United States Attorney General, have objected pursuant to Section 5 of the Voting Rights Act of 1965 to any other legislation or amendments to legislation enacted by the Mississippi Legislature, and submitted pursuant to Section 5, please attach a copy of each such objection as an exhibit to your deposition.

A. See copy attached as Exhibit J.

Q.26 Based on your own personal knowledge and the records of the Department of Justice and the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or have you or any of your predecessors on behalf of the United States Attorney General, objected pursuant to Section 5 of the Voting Rights Act of 1965 to any at-large, countywide plans for the election of county officials required by State law to be elected by districts submitted by any Mississippi county pursuant to Section 5 of the Voting Rights Act of 1965, or written any letters to officials of Mississippi counties objecting to any at-large, countywide plans for the election of county officials normally elected or required by state law to be elected by districts.

[29] A. Yes.

Q.27 If so, state for each such objection, the name of the county submitted each such at-large, countywide election plan, or planning to implement each such at-large, countywide election plan, and the date of the Section 5 objection or objecting letter. In each case, designate whether the letter sent was a Section 5 objection to a submitted plan or

a letter objecting to a plan which was not submitted pursuant to Section 5 of the Voting Rights Act of 1965.

<i>A. County</i>	<i>Section 5 Objection Sent</i>
Attala	June 30, 1971
Grenada	June 20, 1971
Carroll *	June 7, 1971
Itawamba *	April 16, 1970
Tishomingo *	July 7, 1970

\* These letters were in response to Section 5 submissions but were not objections to the plans on the merits. In each, the Attorney General advised the submitting authority of the invalidity of the action they were undertaking pursuant to state law.

[30] Q.28 State whether or not each of the Section 5 objections listed in response to Question No. 27 above is a final decision, or whether any of them were withdrawn, rescinded, or overturned as a result of further administrative proceedings, or whether in any case an action was filed in the United States District Court for the District of Columbia which resulted in a declaratory judgment that such plan did not have the purpose and would not have the effect of denying or abridging the right to vote on account of race or color.

A. No objections were withdrawn, rescinded or overturned, nor were any actions filed in the United States District Court for the District of Columbia.

Q.29 Based on your own personal knowledge and the records of the Department of Justice and the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or have you or any of your predecessors on behalf of the United States Attorney General, objected pursuant to Section 5 of the Voting Rights Act of 1965 to any county redistricting plans submitted by any Mississippi county, other than at-large, countywide election plans?

[31] A. Yes.

Q.30 If so, state for each such objection, the name of the county submitting each such county redistricting plan and the date of each such objection.

<i>A. County</i>	<i>Section 5 Objection Sent</i>
Attala	September 3, 1974
Copiah	March 5, 1970
Grenada	August 9, 1973
Hinds	July 14, 1971
Leake	January 8, 1971
Marion	May 25, 1971
Tate	December 3, 1971
Tate	November 28, 1972
Warren	April 4, 1971
Warren	August 24, 1971
Warren	February 13, 1973
Yazoo	July 19, 1971

True and accurate copies of the letters of objections lodged on behalf of the Attorney General to the redistricting submitted by Attala County and the redistricting submitted by Marion County are attached as Exhibits K and L respectively.

Q.31 State whether or not each of the Section 5 objections listed in response to Question No. 30 above is a final objection, or whether any of them were withdrawn, rescinded, or overturned as a result of further administrative proceedings, or whether in any case an action was filed in [32] the United States District Court for the District of Columbia which resulted in a declaratory judgment that such plan did not have the purpose and would not have the effect of denying or abridging the right to vote on account of race or color.

A. After the Attorney General entered an objection, Copiah and Tate Counties submitted plans which were altered to correct the objectionable qualities and the Attorney General interposed no objection to those plans. After the Attorney General entered an objection, Leake County submitted to the Attorney General a redistricting plan, as required by an order entered by the United States District Court for the Southern District of Mississippi, to which the Attorney General interposed no objection. No objections were otherwise withdrawn, rescinded, or overturned and no suits were filed in the United States District Court for the District of Columbia.

Q.32 State whether the attached documents, designated



Exhibits C through I herein, are true and correct copies of Section 5 objections lodged on behalf of the United States Attorney General to county redistricting plans in Mississippi counties submitted by such counties to the United States Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

A. Yes.

Q.33 State whether or not the United States Attorney General, or you on behalf of the United States Attorney General, have determined pursuant to Section 5 of the Voting [33] Rights Act of 1965, that the current Mississippi reapportionment plan, enacted as House Bill 1389 and Senate Bill 2452, Miss. Laws, 1973, Chs. 456 and 457, approved April 6, 1973, is a change in any standard, practice, or procedure with respect to voting required to be submitted to the United States Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

A. No determination has been made by the Attorney General nor by myself on his behalf that House Bill 1389 and/or Senate Bill 2452, Miss. Laws, 1973, Chs. 456 and 457, approved April 6, 1973, jointly or severally are changes within the meaning of Section 5 of the Voting Rights Act of 1965. However, the question of whether such statutes constitute a change within the meaning of Section 5 of the Voting Rights Act of 1965 is currently under evaluation.

Q.34 If so, state whether such enactments have been submitted to the United States Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

A. Department of Justice records do not reflect that such enactments have been submitted pursuant to Section 5.

Q.35 If such enactments have not been so submitted, state what steps have been taken by the Department of Justice [34] or the Civil Rights Division to require their submission. If a letter has been written requiring such submission, please attach to your deposition a copy of such letter.

A. See Answer to Question 33. No action has been taken to require the submission of such enactments.

Q.36 Based on your own personal knowledge and the records of the Department of Justice and the Civil Rights Division kept in the ordinary course of business, has the United States Attorney General, or have you or any of your predecessors on behalf of the United States Attorney General, objected pursuant to Section 5 of the Voting Rights

Act of 1965 to any other change in voting qualifications or prerequisites to voting, or standards, practices, or procedures with respect to voting submitted by the State of Mississippi or by any Mississippi subdivision, not included in any of the above questions, on the grounds that such change had a racially discriminatory purpose and/or effect, or that the submitting authority had failed to show that such submitted change would not have a racially discriminatory purpose and/or effect?

A. Yes.

Q.37 If so, state for each such objection, the name of the State of Mississippi political subdivision which submitted such change, the subject matter of the submission, and [35] the date of each such objection.

A.

<i>Political Subdivision</i>	<i>Subject Matter</i>	<i>Date of Objection</i>
Shaw (Bolivar County)	Appointment of city clerk	11/21/73
Grenada (Grenada County)	Redistricting, numbered posts, majority requirement	3/20/72
Jasper County	Reregistration of voters	6/8/71
Lafayette County	Polling place	7/16/71
Marshall County	Polling place; precinct change	12/3/71
McComb (Pike County)	Annexation	5/30/73
	(Withdrawn)	1/3/74
Pearl (Rankin County)	Incorporation	11/21/73
	(Withdrawn)	1/3/74
Indianola (Sunflower County)	Numbered posts	4/20/73
Tate County	Precinct change; polling place	12/3/71
Hollendale (Washington County)	Appointment of City Clerk	9/19/73

[36]

[Certificate of Deponent Omitted]

[38]

[Certificate of Reporter Omitted]

[Exhibits Omitted]

Amendment to P-9  
May 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

PEGGY J. CONNOR, ET AL.,  
PLAINTIFFS,

v.

WILLIAM E. WALLER, ET AL.,  
DEFENDANTS.

Civil Action No. 3830

Washington, D.C.  
January 17, 1975

An Amendment to the Interrogatories of the

HONORABLE J. STANLEY POTTINGER

called upon to complete interrogatories propounded on behalf of the plaintiffs, pursuant to agreement, under the guidance of Gerald Jones, Voting Section, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

Answer to Question 31 (page 32 of Interrogatories).

The first sentence of the answer to Question 31 is amended to read as follows:

After the Attorney General entered an objection, Marion, Copiah and Tate Counties submitted plans which were altered to correct the objectionable qualities and the Attorney General interposed no objection to those plans.

/s/ J. Stanley Pottinger  
J. STANLEY POTTINGER

• • •  
[Affidavit Omitted]  
• • •

Plaintiff's Exhibit P-10  
May 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830

PEGGY J. CONNOR, ET AL., *Plaintiff*

vs.

WILLIAM L. WALLER, ET AL., *Defendants*

*DEPOSITION OF RIMS BARBER*

APPEARANCES:

HONORABLE FRANK R. PARKER, Attorney at  
Law, Lawyer's Committee for Civil Rights Under  
Law, 233 North Farish Street, Jackson, Mississippi  
39201

REPRESENTING THE PLAINTIFF,  
PEGGY J. CONNOR, ET AL.

HONORABLE GILES BRYANT, Special Assistant  
Attorney General, Post Office Box 220, Jackson,  
Mississippi 39205

REPRESENTING THE DEFENDANT,  
WILLIAM L. WALLER, ET AL.

Taken at 9:00 A.M., February 3, 1975, at the offices of  
Lawyer's Commission for Civil Rights Under Law, 233  
North Farish Street, Jackson, Mississippi 39201, at the  
Instance of the Plaintiff.



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[3] *RIMS BARBER*, sworn by Polly J. Pinson to duly answer questions, testified as follows:

### *DIRECT EXAMINATION BY MR. PARKER:*

Q. State your name and address, please.

A. My name is Rims, R-I-M-S, Barber, B-A-R-B-E-R. I live at 166 River Park Drive, Jackson, Mississippi.

Q. Is that your home address or office address?

A. Home address.

Q. What's your office address?

A. 520 North President Street.

Q. In Jackson?

A. In Jackson.

Q. By whom are you employed?

A. I'm employed by the Delta Ministry which is part of the National Council of Churches of Christ.

Q. What is your capacity, what is your position with the Delta Ministry?

A. Associate Director.

Q. How long have you been Associate Director with the Delta Ministry?

A. About a year and before that, Assistant Director and before that Educational Director.

Q. Before Educational Director?

A. I didn't have a title.

Q. What is your educational background, please?

[4] A. I graduated from college, Coe college with a—

Q. What was the name of the college?

A. C-O-E.

Q. C-O-E?

A. College, Cedar Rapids, Iowa, with a—I graduated with honors with a major in Political Science. I went—too a year of graduate school in Political Science at the University of Iowa and then I changed and went to Princeton Theological Seminary for three years, graduating in 1962.

Q. And did you receive a degree at Princeton?

A. Yes, right. A degree in Divinity.

Q. Was that a Master's degree?

A. That is a master's level degree and I haven't been back to school since.

Q. How long have you lived in Mississippi?

A. Ten years.

Q. And you came to Mississippi with the Delta Ministry, is that correct?

A. That's correct.

Q. Would you describe—have you had any experience in voter registration activities in Mississippi?

A. Yes, I've had a number of experiences with voter registration.

Q. Would you describe the voter registration work that you have done in Mississippi?

[5] A. Right. The first voter registration work I did was in 1964, talking to people before the passage of the Voting Right Act. Talking to people about getting registered and their inability to get registered in Madison County, which was where I was working at the time and getting them to fill out forms which we called Freedom Registration Forms, which were alternative outside the system, formed for the purpose of developing a base for the 1965 January challenge of the Mississippi Congressional Delegation. Subsequent—well, in 1965, with the passage of the Voting Rights Act, I

was involved in an intensive voting or voter registration drive in Madison County. I spent most all of my time in '65 and early '66 on that, covering, you know, just blanketing the county. Subsequent to that, I've been involved in voter registration efforts in Hinds, Washington, Bolivar, Sunflower, Issequeenna, at least those directly, direct participation knocking on doors, taking people physically to the registration office, talking to them before and after to get their feelings and so forth.

Q. Was the voter registration activities concentrated among members of any particular race?

A. Yes, they were concentrated among blacks.

Q. While in Mississippi, have you assisted any black candidates in their campaign for office?

A. Yes, I have.

Q. Would you describe your experience in that [6] regard, please.

A. Yes. The first campaign—well, it was the Freedom Campaign with Vincent Devine in '64, and then the first real campaign under the laws of the State of Mississippi was—I assisted Clint Collier in 1966, in the early stages of his campaign in what was then the Fourth Congressional District. I also assisted Mrs. Sanders and Mr. King in their—in 1966 in their efforts in the then Third Congressional District. In 1967, I held, along with a number of other people, workshops for candidates and campaign workers and for voter registration workers and poll watchers; a series of workshops around the State in which I believe that more than 75% of the blacks that ran for office in '67 attended those, and a sizeable number of the people who were subsequently poll watchers and so on, attended the workshops which we conducted. Our basic assistance was to get people to understand the law, learn the procedures and we assisted people in working out the structures to make that, within their local community, to make that work and then subsequent to the election, helped them to analyze whether those structures paid off and whether there were flaws in them and what needed to be done to do better the next time, because this was the first real massive black effort to participate in the electoral process and it seemed very important that this experience be a good one and that people learned from it, because a lot of mistakes were made; It was just brand new to people. [7] They'd never been

allowed to participate before in any meaningful way. It was overcoming, you know, this exclusion from the political process that necessitated an intensive effort both before and interpreting afterward.

Q. After 1967, what additional efforts did you make to assist black candidates in their campaigns for office?

A. In '68, I tried to interpret some of the help again in getting ready for two congressional candidacies, Mrs. Barnes and Mr. Hall's; tried to build off the basic knowledge which we gained in '67. In '69, we worked with municipal candidates in doing much the same thing. In '71, I guess is the next big one, I again took what we had learned, again doing workshops in communities, helping people understand what the law was, what needed to be done, how best to organize to gain their—a fair chance at getting elected.

Q. What candidates, if any, did you assist in '71?

A. There is a long, long list, several . . .

Q. Well, could you give us, to the best of your knowledge, the ones that you did render assistance to?

A. Wow. O. K. It would be easier to tell you the counties that I worked in than it would be to name each and every candidate although I could find . . .

Q. Tell us the counties that you worked in.

A. O. K., we worked with Holmes, Humphreys, Madison, Washington, Bolivar, Marshall, Hinds, Claiborne, Issaquena, [8] Noxubee, and a few others, you know, I mean, those were—those I recall specifically going to.

Q. And you generally assisted black candidates in those counties?

A. Yes.

Q. Have you assisted any black candidates in their campaign for office since 1971?

A. Yes. I worked with, in the same fashion, in the 1973 municipal elections and during this past year, '74, worked with the people in Claiborne County on three special elections that were held in that county.

Q. Do you have any background or experience in analyzing voting patterns and results in elections?

A. Yes. The first—I would say that '67, was when I first began to look seriously at these, because the most overwhelming thing was '67 was the number of people who lost and thought they were going to win. They needed to know why they lost.



Q. Now, when you say they, the people?

A. We're talking about black candidates, so what I tried to do was take systematic looks at a variety of things: (1) is taking—I've looked at things like impounded ballots that were—that were challenged. Challenged ballots in which we could identify by the name on the outside the race of the person involved and look at those and see how people voted and [9] develop patterns off that; looked at absentee ballots, again which one could determine the race of the person by the name and look at the same thing, the absentees tend to be white and the challenged ballots tended to be black. To look at those in a comparative fashion. To look at voting patterns in precincts and work out probabilities of—of how people voted, based on statistics or analysis of precinct votes. This involved looking first at all black and all white or nearly all black and nearly all white precincts in various parts of the State to see if—to look for patterns that emerged and general patterns did emerge in that which have held up in subsequent elections.

Q. Could you tell us what patterns emerged?

A. O. K. Well, we can get to that later.

Q. O. K. did you notice—just let me ask you this, did you do this also for 1971?

A. Yes. Yeah, I did it for '71, and subsequently.

Q. And did you notice any pattern of voting for any particular candidates on the part of white voters and on the part of black voters?

A. Yes, it—I could find very rare, very rare instances where the whites voted for a black in excess of 3%, it would be very rare. There are two precincts here in Jackson that have a—people view them as being the more liberal precincts, and tend to vote higher, up to 6-7% for a black candidate. When I get into the more rural areas of the State, I find that at least 99% of the whites vote for a white candidate. In the black precincts around the state, the same holds true and it is the probability—well, it's a little bit more of slippage in the blacks but you're talking about 90-95% instead of 97-99%, but there is a block vote that's not in the black community of 90-95% and a block vote in the white community of 97-99%, give or take a shaving in some differences in some areas for peculiar reasons.

Q. Did you analyze the election results for 1971 in the general election?

A. Yes.

Q. What type of analysis did you perform?

A. As I said before, the purpose of doing the analysis was to help people in the black community who were new to the political process learn as much from the experience as possible. The purpose was, then, to give to people some documents and words and verbally to help them understand the patterns and what it means for their campaigns and their participation in the future.

Q. What were the factors you looked at?

A. We looked at a number of factors. One was—well, the first one that one has to look at is registration, and from a variety of people who looked at the question of registration there is a differential between the black and the [11] white community in terms of registration on the general level, somewhere between 10 and 17%. By that I mean that in a given county, perhaps 80% of the whites are registered and 65-70% of the blacks are registered. It is almost a sliding scale with about a 10-15% 10-17% differential between.

Q. You're speaking about the percentage that are eligible?

A. Of the eligible voting age population that are registered. The first thing one has to look at is, are people registered, and in—there are some tendencies, urban areas register a little bit better in the black community than rural areas. Hill countries [sic] better than delta countries [sic]. There's very low registration in some particular areas and high registration in some, but on an average, it comes out 65-70% of the blacks are registered and somewhere in the neighborhood of 80% of the whites are registered.

Q. What other factors did you look at in your analysis?

A. The next thing we have to look at is the question of turnout. Turnout is noted, not only by how many people—well, the starting point for looking was, how many people voted for Waller, Evers and Brady together; you add those up and come up with the total. Then you want to know whether there are any other people who went to the polls who didn't get their vote counted. I think there were about 20,000 people who went to the [12] polls that day that didn't get—either did not vote for Governor on purpose, did not vote for Governor on accident or did not get their vote counted for some other reason. We looked at the—for instance, each printout form on the IBM thing here in Hinds

County and found that, I have the percentages here somewhere, but it was 2-3%—3% in the black community and one or less than 1% in the white community. Apparently they did not vote for Governor: that is, they either didn't push the stylus all the way through or they, you know, something—their card, they didn't have a vote counted for Governor, so that you have to add some people turning out who did not get their votes counted, for whatever reason. There also were challenged ballots and others that added on to that—to that figures, so we came up with about 20,000 people in addition to those who voted for Governor, and that was the highest vote getting office. We looked at turn out and found that there tended to be again a differential of about 10% or a little more between the turn out of whites and the turn out of blacks. We then looked at a variety of other things, trying to confirm that. We looked at the polling books, for example, I have looked at the polling books of Claiborne County recently in which we attempted to determine how many people had not voted in a period of time, whether there was any consistent pattern and we find that there are patterns. We have done the same look in four or five other counties on a selected random sampling kind [13] of basis. Here I find that in the white community that—well, there are three groups of voters that emerge from such an analysis. There are those that vote almost every time. There are some people who would vote just to get out of the house that day or whatever. They just vote every time there is an election, and there is a good number of whites in this—in this grouping and there are a lesser percentage of the black registered voters that are in this group. Then there's a group that votes when it's a generally big election. They vote periodically, regularly and the majority of each group, both black and white, are in this group. Then there's a group of people who hardly ever vote. In fact, we found somewhere around 10-15% of the black voters who have never voted and they were registered, and we find very few whites who have not ever voted since they were registered or who vote very, very seldom; once or twice in a ten year period. This is, in some sense, explainable.

Q. Let me ask you, in your analysis of the 1971 election, were there any other factors that you looked at?

A. Yes. One was the—we looked to see if there were any black candidates for whom whites voted, to see whether

there was a block vote that held. We found a few instances and on names, I can recall them. They stand out in one's mind. Robert Clark, who is an incumbent, running for re-election to the House of Representatives, received 400-500 white votes, [14] mostly from the Durant area in his bid and Dr. Conner, running for the House in Oktibbiha County, received some University votes, and Dr. Stringer, running in Lowndes County, received some substantial number of white votes and then there was one really weird one where, and which I've never followed up to figure out why, the man running for, the black funeral director in West Point, running for coroner, received almost 50% of the white votes and it's the only time that any percentage more than 10% has ever gone to a black candidate, so he holds the record, as far as I can tell.

Q. You cite these examples as patterns and norms?

A. Well, as exceptions that I could recall for you as related because they stood out so vividly in my mind. No, we looked at it very seriously and found that except for these four people that I've named, that nobody got more than 3-4% of the white vote, no black candidate got more than 3-4%, and in most cases, got a much smaller percentage. I also looked at a number of other things. This slippage—or how about—did people vote for every name—every position on the ballot and that the tendency was for white people to vote with a high degree of consistency and for black people to vote with a lesser degree of consistency. In some counties, there was a higher consistency than others, but there tended to be a slippage of about 15% between the highest vote getter and the lowest county-wide vote getter.

[15] Q. You mean among blacks candidates?

A. Among black candidates, so that in almost all instances—Mr. Evers, in the '71 election, got the highest number of black votes and there were four exceptions to that, also. He got the highest number of black votes and then it would drop off. People would go in and vote for Evers and walk out—some people—a few people. The major exceptions in the black pattern occurred at the office of Sheriff and Supervisor, which tended to be those positions which blacks voted least consistently on in any block. That they tended to vote for all other races in a block but that there tended to be a slippage that was greater in the black community than there was in the white community in terms of consistency of



voting for the entire slate, if one wants to call it that. We looked at a number of other lesser factors, but . . .

Q. Have you assisted in the preparation or in the writing or in the analysis of any published studies of racial voting patterns in Mississippi?

A. Yes, I have. I have a number of minor ones in that groups like the voter registration project or the joint political studies groups.

Q. The Joint Senate on Political Studies in Washington?

A. That's right, in Washington. What is tended to happen is a day or two after an election or a week after an [16] election, we'd talk on the phone at some length, trying to narrow down factors so that they can—I've assisted them in putting out what they want to put out. I've worked with—I helped Lester Salamon, whose article was—was, I think, a major article in the American Political Science Review in December of '73. He's since sent me his manuscript for my comments and, you know, we talked about it. It is his article which I think created some controversy in the political science world, was an attempt to use Mississippi data to talk about what are the causes of black lack of participation in elections. There has been, before the publication of his article, a general agreement in the academic world that it was apathy on the part of black people, that unless you would prove that people were beaten over the head at the polls, there was no such thing as fear or any other kind of scale that would work, but I think they were a little too academic in their scales, but at any rate Les attempted to develop another set of scales. A set of scales that lean most heavily on economic insecurity as a criterion for judgment and what his study shows, in the main, is that—well, he put the counties on a percentage basis; he ranked them by economic black, economic insecurity index and then he ranked them by the percentage of the voting age population that voted for blacks in a couple of elections and found there was a high correlation between a high percentage voting and a low percentage of economic insecurity. That the higher [17] the insecurity level, the lower the voting level. And that had to do with things like how many people on welfare, how many people in tenant houses, that kind of a factor.

Q. Are there—do you see cause from anyone before or after major elections in Mississippi?

A. Yes.

Q. From whom?

A. The Justice Department always calls two days before an election, wanting to know where the problems are going to be.

Q. Could you be more specific about this—problems, you mean the Attorney General calls you or who calls you?

A. No, well, it would be somebody like Sid Bixler who is currently in charge of Mississippi in the Voting Rights Section of the Civil Rights Division of the Department of Justice. So that I would get a call from those people—get a call from newsmen who want to know where to cover or want to know what races seem to be viable, what races are just being run for whatever other reasons, that are not—there's little chance of winning. So that I get calls that find some assessment of where the candidacies are going, where there's a real race, prior to the election, from the news and from other people interested in monitoring the elections. I get calls after elections from people wanting to know who won, . . .

Q. You said people, would you be more specific?

[18] A. Yeah. I get calls from—well, for instance, the local press have consolidated their efforts in some kind of computerized system so that, during the '74 November elections, all they gathered was congressional data and nobody knew how many school board members had won or lost or anything like that from that system they had developed, so that people called me wanting to know how many black school board members won. And that kind of thing, so that the local press would call, people like the Voter Educational Project—those kind of people would call to find out what happened and some of them are interested in why and some opinion beyond simply the facts.

Q. Let me ask you, Mr. Barber, as a result of your efforts in 1971, let me ask you whether or not you became familiar with the black candidates who were running for the legislative offices?

A. Yes, I did.

Q. And would you describe how you gained that knowledge?

A. Well, I'd worked with Robert Clark for four years, giving him some assistance as he was the only black in the State Legislature and felt that many people looked to him as being their representative because they were black and he was overwhelmed by the work involved with that and

sought assistance and we had been giving him some assistance. We then were requested by some of the others to give them some [19] some assistance in making the decision as to whether to run or in deciding how to campaign and deciding a variety of campaign tactics. They would look to our advice on voter registration or something as they prepared to run and then assisted some of them in looking at their election, other than Bob, who one [sic]. Everybody else lost and some of them wanted to know why they lost, and we attempted to analyze and look at their campaigns to see where the losses were.

Q. Let me hand you a copy of a document which is Exhibit 24 to our request for admission of facts and documents in this action. This purports [sic] to be a list of black candidates for the State Legislative office for 1971?

A. Right.

Q. Let me ask you if you have analyzed this list?

A. Yes, I have.

Q. Can you tell us whether or not this list is accurate?

A. To the best of my knowledge, this contains everybody who ran for the Legislature who was black in 1971.

Q. Does it also, to the best of your knowledge, correctly give the districts and post the results?

A. Yes, yes, it does.

BY MR. PARKER: I ask that that be marked as Exhibit "1".

(Whereupon said document was marked as Plaintiff's Exhibit "1").

[Exhibit Omitted]

[21] Q. Do the State officials maintain voter registration figures by race in Mississippi?

A. No. Some county officials do, some don't.

Q. Do you know of any reliable studies or reliable data that we can use in this lawsuit in determining the black voter registration in Mississippi?

A. Well, a number of people have put their hand to try to figure it out. I would think, from my experience, that the Institute of Politics is probably the most nearly accurate study because they have talked directly to each and every registrar in the State in order to ascertain figures and have

talked to a lot of people in an attempt to verify figures, so it wasn't just an off-the-wall kind of thing, I think it is a fairly comprehensive study. I have some reservations about the view of those figures. I think they . . .

Q. Do you have a copy of the IOP study?

A. Somewhere here on the desk or in my briefcase, I do, yes, sir.

(Mr. Barber gets document out of briefcase.)

Q. Is this a published study, by the way?

A. This is a published study; it's dated, let me see what the date on it is—1971—my goodness, it doesn't have a specific date on that when they did it. Total Registration Surveys between December, 1970 and March, 1971.

(Mr. Parker left room to make copy of the ten page publication.)

[22] Q. Is this a copy of the study which you just produced, Mr. Barber?

A. Yes.

(Mr. Parker shows photocopy of four page document to Mr. Barber.)

BY MR. PARKER: I ask that that be made Exhibit "2" in the deposition, please.

(Whereupon said document was marked as Plaintiff's Exhibit "2", and appears immediately following this page:)

[Exhibit Omitted]

[27] Q. Now you indicated that you had some problems with some of the figures on the IOP racial voter registration statistics. Would you indicate to us at this time where those difficulties appear?

A. Right. Those difficulties appear in some counties that seem not to have cleaned their books up very well and that is especially apparent in areas with high out-migration ratios. We did a serious study in Bolivar County and determined that a good number of people who were registered in the early days of the voting rights act [sic], '65-'66, then there was a sizeable out-migration wave in that area, in the Delta area during '67-8-9 and that a sizeable number of peo-



ple who had registered during '65-66 had subsequently moved and were alive and well in Chicago and were still carried on the books, so that in some counties, we think there is a lower black registration number than physically are on the books.

Q. Would you give us the names of any other counties where you believe this to be true?

A. Yeah, I think Coahoma County is a particular example in which the Coahoma County figures 21,000 currently is what they're claiming to be on their books, and my estimates are that 3,000 blacks have either died or moved away in the meantime and that would change their voter registration from being 55% black to being 51% black or 50 point something. It would substantially change the ratio between black and white [28] if one takes a critical look at who is really there. In going over, as I said before, we had looked at polling books as one item and finding people who members of the community knew to be dead, people still on the books and that's why they hadn't voted since they registered there, either moved or died.

Q. So would it be fair to say that the IOP study, if it errs at all, that it errs in favor of inflating black registration rather than depressing black registration?

A. Yes.

Q. What did these studies and particularly the IOP studies show with regard to percentage of eligibles registered in the white and the black communities?

A. They show that there is a disparaging—that the white community tends to be registered in a higher percentage than the black communities. Their differential—

BY MR. PARKER: You may refer to notes if you like.

A. Excuse me, yes, I have to refer to my notes that I have in here. Excuse me. (Gets notes from his briefcase.) There's a differential of 17% between black and white registrations.

Q. Now would you explain that?

A. That means that—they have in their studies alluded to two figures ranging from 63 to 70% of the blacks [29] being registered and . . .

Q. This is a percentage of the voting age population?

A. Voting age population, right.

Q. In the black communities registered to vote?

A. That's right and 80 to 87% of the white population.

Q. White voting age population registered?

A. Yes, white voting age population.

Q. Registered?

A. Registered.

Q. That study, then, shows that disproportionately fewer eligible blacks are registered to vote in Mississippi than whites?

A. That's right.

Q. Is the difference statistically significant in your view?

A. Oh, yes, very significant.

Q. As a result of your studies of election and turn out and as a result of your voter registration work, what explanation is there for this significant gap in black and white registration in Mississippi?

A. Well, the first factor is the previous discrimination prior to the '65 voting rights act [sic], there were virtually no blacks registered and in some counties, where no blacks knowingly registered and there were people who had experiences [30] during '63-64, in the early 60's, who attempted to register and were turned down and in some cases that had, you know, real problems in attempting to register.

Q. Would you tell us what problems those were?

A. Well, three people died in that period—being shot immediately following attempts to register which the community generally interpreted as an attempt to scare them off from such attempts and reacted with proper fear. I will not testify as to who shot or why, particularly; all I can say is that the effect on the community was one of intimidation.

Q. Are you familiar with Vernon Daimer and his wife?

A. Yes, I am.

Q. What happened to him?

A. He was fire-bombed in Hattiesburg.

Q. Are you familiar with Wallace Jackson in Natchez?

A. Yes.

Q. What was his work?

A. He was bombed.

Q. What was his "work"?

A. Oh, he was working on voter registration.

Q. What happened to him?

A. He was killed with a bomb.

Q. Are you familiar with any instances in which persons attempting to register to vote at the court house were [31] set upon by dogs or the police?

A. Yes. I have—been with—people who were attempting to register who were arrested for—or ushered away by police.

Q. Where was that?

A. Uh, in Canton.

Q. How does past discrimination and voter registration affect the current black registration, if at all?

A. Well, in a couple of ways. One is that—that past discrimination is something that stays on in the memory a good while so that there is kind of a community memory of discrimination that's fairly important in the sub-culture, and there are—for instance, there is a disproportionate number of older people in the black community as compared with the white community, and these older people lived most of their lives during periods of discrimination and are fairly well set in their ways and are largely incapable of overcoming past discrimination in terms of their own personal action. It tended to be the younger people who were not as traditionally tied to certain acts of obedience who took on the cause, however, there are notable examples—exceptions of older people who went out there and fought pretty good for their rights but it was mostly younger people who said, "by golly, we're going to make the change" and the older people who were more dependent either economically or just out of habit who held back and the black [37] community has a disproportionate number of older people. So that's part of it. I think that the discrimination which has been well documented in the educational field, for instance, and the imposition of the test which was there until '65 sufficiently discouraged people—it sufficiently—the educational deprivation lead [sic] people to be more economically and socially dependent so that educational level does have something to do with a person's level of confidence in one's self, and personal ability to get a job that is in a category that is somewhat independent, so that—we find that people who are farm laborers or maids are less independent. I could give you, it's really quite—I know an old man in Yazoo County, oh, he must be around seventy. We'd gotten him registered and he was scared to death; went and asked him to go vote in '71, and he said "the man's going to find out—how I vote", and we tried to explain, "no, it's a secret ballot." We told him that he could vote and "you don't have to tell him, you can vote for the person you want to vote for and

we think you have that right." The old man screwed up the courage, went down there and voted. The next day the owner of the place came around to each person who had been to the poll that day and said, "who'd you vote for?" This poor, old, seventy-year old man said to us, "I ain't never lied to Mr. Charlie in my life and I just couldn't do it, so I told him I voted for Mr. Evers," and he was kicked off the place, had to go find himself another job. [33] His family has lived on the place for three generations, here he was seventy years old, roughly. Uh—that kind of feeling; the feeling that somebody's really going to know, uh, is prevalent among the older people, or the inability to say, "that's none of your business" to Mr. Charlie. It's just very difficult for them. They are bound by a certain tradition, even going up into the polling place, for many of them was a difficult task—"why are you here?" gets asked of them, you know, for what reason. They feel it implied even if it isn't asked, so that—for many, it's still a difficult task.

Q. Are there other factors that contribute to the depression of black voter registration in Mississippi? Is age a factor, I think you mentioned age?

A. There's age.

Q. Do social and economic characteristics play a role?

A. Well, I'd—yeah, I would say yes, that lack of transportation—there's a generalized correlation between, between economic social standing and whether you are active—in almost anything. If you have a car, a telephone, a television set, a decent house and a job, you're more likely to be active in church and civic affairs and a variety of other things. If you don't have those things, you tend not to be active and to not come out and vote or to not come out and get registered or—we find people who are—well, let me [34] give you a couple of other examples. We've done some studies on participation in other programs such as Medicaid screening program which is for children of ADC mothers and the best results the state can get is a 50% participation level, because. .

Q. Fifty percent of the eligibles?

A. Fifty percent of the eligibles and they attribute that to lack of transportation and lack of ability to read and write, to read the notices that come in the mail, so that here's a free service to give your child a physical which you are clearly entitled to and they send you three notices setting up



appointment dates but people either cannot get there or don't know what the heck the notice is saying. Another kind of example is that about half the people on welfare do not participate in the food stamp program. They just—it's too much hassle to go down there and wait in line, to stand up there and talk about their life and have themselves looked at, it's too much hassle and they don't do it. They can not go out. They stick closer to their own community. They talk more with their narrow group of people. They don't see the world in much of a larger view. They tend to see today as today. They tend to save everything they have, to be very conservative in personal habits, although that conservation takes on strange twists at times. Many people who say, "I have a piece of silver silverware," and you ask them where it is and it's between the mattresses and they say, "if I take it [35] out and use it on the table, I might lose it," and they're not going to be able to say, "I have a piece of silver silverware so I will save it between the mattresses and never use it so that I can always say I have it." A very conservative kind of thing and they're very conservative of what they have and protective of what they have and one of the ways in which they protect themselves is to not stick their neck out unless it's overwhelmingly important to them. It takes a lot of work with many of these people to get them to stick their neck out. They have to really sense that this is going to make the difference, and many of them, when we sit and talk with them, say, "what difference is it going to make?" They want to know whether the person is going to win or lose, because if they think the person is going to lose that they're going to vote for, the black candidate, or they potentially might vote for, then they don't want to go out and vote on the losing side—that's a far out position, that's not very conservative. That's not protective. They don't want to vote for a loser. And then they say, if he wins this, it's going to make a difference. Is somebody that's going to protect me? And the answer to is somebody going to protect me, the answer is no, nobody is going to protect you. If the man wants to throw you out of the house he will or whatever. And sometimes you'll say, "well, they can't take you off welfare arbitrarily, just because you go vote." People don't believe that. I've sat and talked to people at great [36] length, trying to convince them of the fact that their vote is secret, that they can go and vote and

that they will not lose their welfare or the food stamps or whatever they've got that they're trying to conserve. That seems to be their basic problem, conserving what they've got and they don't believe me, so there is still a reticence [sic] among the poorest of the poor and among the elderly to get out there and participate. In fact, there are certain counties that have more of these kinds of people than other counties. Tunica County would have the highest index, for instance, of these kinds of people and it's the only county in the United States that has more than 50% of the households on food stamps. It is really very poor and very dependent and it is in counties like that that one expects very little political participation and it is, in fact, one in the Salamon study, for instance, and it comes out near the bottom in terms of political participation. It just doesn't participate. There were four majority black counties who had less than 50% black turn out in 1971, that I can recall, Tunica, Quitman, Sunflower and Leflore. Those are all delta counties; those are all counties with high numbers of people on welfare, high numbers of people who are farm laborers. In that category, they are very dependent, scared to go down. It's not necessarily an overt action of somebody to keep them in their place but it's kind of an overall more subtle [sic] societal pressure as they see it.

[37] Q. Are you familiar, have you studied the problem of electoral or political means of diluting minority or black voting strength?

A. Yes.

Q. In your view, how would you define dilution of black voting strength. What does it mean?

A. Can I give you an analogy first?

Q. Well, give us a definition first.

A. O. K. It is the placing of any definable community of interest within a larger body so as to make that community of interests use irrelevant to any political outcome.

Q. We're speaking now of racial dilution. Would you define that in terms on how that occurs on the basis of race?

A. That occurs on the basis of race where you take a predominantly black area and pair it with a predominantly white area that is of larger population so that the total—within the total the black population is too small to have a reasonable impact on the election.

Q. O. K., now we're speaking in terms of dilution of vot-

ing strength, and that's the thrust of this lawsuit. How would we define voting strength. What, in your view, is the best definition of voting strength in the community? What factors are the most important? In other words. .

A. Well, I'd—I think there's only one factor.

[38] Q. O. K., what is that, sir?

A. That factor is numbers. Now, there are other minor factors—how many, what percentage are the blacks within that particular voting district and when I take the factors that I've been speaking of, in terms of registration, turn out, spoiled ballots, etc., it is my belief that unless a community has—a voting community has 58% black voting age population, that it does not have an effective working electoral majority and that therefore given the racial block voting patterns that exist, the great likelihood is that they will lose the race if they do not have 58% black voting age population, and I based that. .

Q. O.K., let me ask you how you arrived at the 58% figure?

A. O. K. What I'd—what I'd do is I'd compute the differences that we talked about before in terms of registration, turn out, spoiled ballots, those three, and I'd factor those as a ratio of one to the other, then apply those to the black and white percentages of voting age population, giving me a new number for each, which I then take a percentage of. If that percentage is 50% or more black, then it's—that would indicate the actual viable optimum or maximum feasible voting majority, and then I'd look to see what I started with and if I start with 58, it comes out above 50%. If I started with 57, 57.43, it comes out below the 50%.

[39] Q. O. K., would you describe how that works for us in actual facts. Let's take a county that is 60% in terms of the black voting age population, and would you describe for us how you arrived at the conclusion of whether or not that county has what we might term a black voting majority?

A. The projected optimum—let me describe what optimum is, first, what I mean by that. I—I'm trying to do what I call a conservative estimate. If you do the very best job of voter registration, if you do the very best job on the voter turn out, if you do the very best job of educating people on the use of the ballot and if everything goes well that day, that's optimum. It's—anything that's a little shaky, you're less than that, so we're talking about not what can normally

be expected to happen but what would happen only if there was great, hard work put into it. We say that in a 60% black voting district. .

Q. Voting age population?

A. Voting age population, we would expect that the white population is already registered at 80% or better; that the best you can do, if you work hard, is to get 70% of the blacks registered, and we anticipate from voter patterns that if it's a significant election and a black/white race tends to mean that it is a significant election, the whites will turn out in sizable percentages and that you've got to work very hard to come within ten percent of what they can turn out. If you [40] work very, very hard, you may turn out 70% of your people and they will turn out 80% of theirs. The IOP indicated that on a state-wide basis there was a 63% black turn out and a 74% white turn out, which is an 11% differential. If we say that that was optimum, 11%, O. K., differential between black turn out and white turn out and that if you educate these people really well then you could keep your spoiled ballots down to 2-3%. Now it's a problem with—with our big election in '71, '75, '79 in that the ballot is enormous so that the chances for error, the chances for slippage are enormous. The most interesting one that I found was in Coahoma County where, for some reason, one of the candidates for the House of Representatives ran as a Republican and there was no Democrat and a black ran against him as an incumbent, which meant the way the ballot was set up that there was a blank spot as you moved down one column. .

Q. Where was the blank spot?

A. In the Democratic column which was first, because there was no Democrat, and so that, uh, a number of people just skipped that office altogether. They thought it was blank because they didn't give a full scan. Both blacks and whites skipped that office so it had the lowest voting participation for that office. So that what I'm saying is that a quirk as how the ballot is set up, if you want clear and educated peoples, they understand it, you're going to have a high degree of people missing an office or missing something and what you have in most [41] instances is a ballot with thirty offices on it and blacks running for ten of them and people in the black community, well, you find maybe two groups in the black community; one recommending that you vote for



every office and selecting the white to vote for in the offices in which no black is offering and others putting out sample ballots, noting only to vote for the blacks, in the offices for which they've offered. But it's confusing, especially when you get into places like Hinds County where you have to go through twelve posts of the representatives and five posts of the senators and to remember that Henry Kirksy was running for Post 11—instead of—I'm just looking for his name, trying to find it.

Q. He was, in fact, Post 5.

A. O. K. Post 5, just trying to find the name is a problem and I have been a poll watcher in some of these places and people will go in and spend enormous lengths of time in that voting place, looking for what they're looking for and come out shaking their heads like they don't think they did a very good job of finding what they're looking for. Why, you can overhear them, standing outside talking to one of the election managers, who is assisting them with their ballot, if they are illiterate, so what happens, the person goes in, spends two or three minutes and finally an election manager notices that nobody's coming back out of that one and sticks his head in and says, "do you need any help?" And the person says, "Yes, sir," sad to say, [42] they'd say, "yes" so he gets in there and he says, "well, who do you want to vote for?" The person says, "I want to vote for so-and-so." "It's right here," you know. So the one pattern emerges that if they say they want to vote for somebody, they point at it and hopefully that's the correct one and they pull the lever, mark the "x" or whatever it is on their procedure. Others, at times, have stood out and heard the man read through the list. All right, for—and just read down every single name in almost rapid fire. All right, and hear the person say yes or no to every name or as often as they could squeeze in yes or no and see them miss some. Just missing them because of the sheer process. What I'm saying is that people who are illiterate especially or who are semi-illiterate, hold great difficulty in dealing with that long ballot.

Q. O. K., sir. How did you arrive at the 58% figure?

A. Oh, is that where we started? (Laughter) Well, as I said, if you do a good job of all these various steps. .

Q. Would you describe the process that you went through?

A. O. K.—I take the percentage black and the percentage

white. I apply it to the percentage of black voting age population, a 70% voter registration, to the whites an 80%.

Q. 70% for who, now?

A. Blacks. 80% for whites and I would do the same thing in voter turn out—70% and 80%, black/white and then [43] add in another factor for spoiled ballots of 3-4% and 1%.

Q. 3-4% for what?

A. 3-4% for blacks, 1% for whites. Arriving then, having factored those with two numbers, so then add and percentagize, O. K.? And that percentage tells me what percentage I would, at optimum, believe a black candidate could get in that voting district, based on the voting age population.

Q. And the result is, for a black candidate to win in a particular district, the black voting age population has to be what?

A. Has to be 58% or better.

Q. What happens in cases where the black voting age population is above 58%? What happens to the black candidates, win or lose?

A. Well, here in 1971, five contested races in districts above 58%—no, four contested races, one wasn't contested, blacks won one of those four. Blacks lost all of the others, the ones below 58%. That is Robert Clark's Holmes and Humphreys County district, he won and in the others—here's where it's the most—on a scale of who is most likely, Clark was first, Coahoma County was second and there was a marginal 51.3% is what I've come up with as an optimum—and after those two districts, there were three people offering in—in—there were actually four people offering in Coahoma, but due to [44] the way the districts are divided up, only three of those had a chance to start with. Of those—of those three, one was extremely marginal, 50.2, something like that.

Q. What figure is that, 50.2? What is that figure?

A. Let me get out a piece of paper here. (Does so.) In the Coahoma-Tunica-Quitman district, which is district, represented as District 11, Coahoma, alone, has 58.7% black voting age population of black.

Q. That was in 1971?

A. In 1971. It's actually the '70 census, which gives me an optimum figure of 51.3. That's for Posts 1 and 2.

Q. That means that under ideal conditions. .

A. Under ideal conditions. .

Q. The black candidate was likely to get 51.3% of the total vote?

A. Of the total vote. Now, O. K., for Post 3, the percentage—the optimum is 49.7. For Post 4, the optimum was 50.7 and those are because of the different combinations of the three counties for the different posts. Now, in fact, what I said was I was using maximum feasible as my criterion when I—because we're talking about things within ranges. If the differential was between black and white registration, is—is by everybody's estimate 10-15%, I took 10 as the differential. If I take the maximum of what everybody estimates state-wide and apply it, rather than the figures I used, which were the [45] more conservative figures, then, the optimum would be for only Holmes and Humphreys to qualify because 59% would then become the cut off point. If you apply that other differential, if you take the 11% registration differential, if you apply each one at the outside of the range then the differential, the breaking point changes from 58 to 59% so that—in fact, Coahoma would come up 49 point something percent rather than 51% as in mine. I had 51%.

Q. Now have you examined these multi-member districts that were part of the court ordered plan in '71 and subsequently inacted by the Legislature, to examine whether or not they lose minority voting strength and the definition you have given?

A. Yes, I have.

Q. What have you found?

A. Several things. One is that only 25 of the 174 seats are in districts that have even a black voting age population majority and that of these, only five of them have a population, black voting age of 58% or more out of the seats.

Q. Would you give that again, please?

A. Five of the 174 seats are contested for in districts which by the 1970 census, had 58% black voting age populations or more.

Q. That means that under optimum conditions, blacks could only possibly win in five seats?

[46] A. Yes, that's right.

Q. Does this include both the senate and the house of representatives?

A. Yes.

Q. O. K., go on.

A. I have looked at some examples. Those are my general conclusions. If one looks at some of the—some of the districts the way they are—Jefferson is paired with Copiah for a house seat, it's representative district thirty-two, for two house seats. Jefferson has a higher than 58% black voting age population; Copiah has a much lower percentage and has more people. When you pair them together, they combine at 51.1% black voting age population, so an optimum percentage of black vote of 43.7, so you've taken a county like Jefferson, merged it with a—a—place with a white majority voting age population in such a fashion that a black from Jefferson would not have a chance to win in the Jefferson-Copiah district.

Q. What is the significance of Jefferson County? Are there black concentrations, significant black voting concentrations in Jefferson County?

A. Yes, Jefferson County has elected 10 or 12 black officials—there are several counties that have done that.

Q. In what positions?

A. At the—well, the city is black-controlled.

Q. What city?

[47] A. The city of Fayette has five black aldermen and a black mayor. There is a black election commission which is elected county-wide; they—there are now two black supervisors, a majority on the school board and it has a black Superintendent of Education.

Q. So, combining Jefferson with Copiah, is there any chance—is it likely that a black candidate could win in that house district?

A. It's totally unlikely.

Q. Are there any other examples?

A. There are other examples.

Q. Do you want to give them?

A. Yes, I would. It's neighbor to the north, Claiborne County, again, has a viable black voting majority as evidenced by the election of county-wide officials in Claiborne County. It is paired with Warren County and, therefore, there is no possibility of electing a black out of Claiborne County. Wilkinson County is another which is paired with a couple of different arrangements so as to dilute it.

Q. Now, in the House, Wilkinson is combined with Amite and Franklin?

A. Um-huh, giving it a voting age—oh, my goodness, I have it down here somewhere—giving it a majority white



voting age population. I don't have the figure right here in my notes.

[48] Q. O. K., are there any other examples?

A. Yes, Marshall County. .

Q. What's the significance of Marshall County?

A. Marshall County is large enough to have a representative all by itself, in fact, probably about a representative and a third, it should be entitled to by population but it is merged with DeSoto County and loses its identity therefore, because DeSoto County is much larger. DeSoto County should be worth two representatives, roughly and so that the black voting majority in Marshall County is merged with mostly white suburban Memphis-type county so that it has no voice at all in—who represents the county.

Q. In Marshall County are there black voting concentrations sufficiently large to elect black officials?

A. Yes, there are. There's a supervisor in Beat 4, for instance.

Q. What kind of a supervisor?

A. Black supervisor in Beat 4. There have been other black officials. There's a black coroner.

Q. Are Blacks at the constable and J. P. levels?

A. Yes, they are at the constable and J. P. levels.

Q. In Marshall County?

A. Yes.

Q. Now you have indicated combinations of counties that are in what we call multi-member districts that lose black [49] strength. Are there also multi-member districts that are not multi-county districts where, in your view, black voting strength is diluted under the current plan?

A. Yes. Yes, there are. If I could mention two or three. In Hinds County there are significant concentrations of blacks in Hinds County. Hinds County has a black—34% of the voting age population is black in Hinds County, which means that the black cannot win in Hinds County at large but since there are twelve positions, each one of them worth, what—8%, there ought to be three or four black representatives if there was some parity. There should be three or four black representatives representing Hinds County and the blacks in Hinds County are geographically situated in the community of interest—manner so as that were there single member districts, they could elect members of their own race or at least someone who would represent their interests. The

same could be said for Adams County, which has two representatives, which has Barney Schoby.

Q. What is Barney Schoby?

A. He is a supervisor from Beat 4 in Adams County.

Q. Black?

A. He is black. If you divided up Adams County into two districts, you would, most likely, be able to elect one black and one white from that district which would more accurately reflect the racial composition of Adams County than the current two whites that now exist. Similarly, Washington County, [50] it happens to be paired with Issaquena, but Issaquena is only—well, has so few people in it as to not determine anything by the outcome of the election. I lived in Greenville for about five years and I'm totally familiar with the geography and if you drew a line in the city of Greenville along Highway 82, north of that line would be 90% blacks and south of that line would be 99% white and it's just a clear—pretty clear separation of the races by geography within that and each of them constitute more than enough to elect one representative, however the representatives from that area, from Greenville itself, are concentrated geographically in the southeastern portion of the city, in terms of where they live, and are all white—except for Buddy Newman, who lives way down at Valley Park.

Q. What effect, then, do these multi-member districts in the current state reapportionment plan have upon black voting strength?

A. They dilute black voting strength so that it is my belief and prediction that, all things being equal, there will only be one black in the house or senate next time around, and that black will probably be Robert Clark, coming out of the Holmes-Humphreys district. But all other districts will not be viable. I've done some computations. .

Q. Is this true only on some multi-member districts or is it true of all the multi-member districts?

A. Well, in terms of today's politics, of the [51] realities of today, it is true only of some so that in Tishomingo County it makes no difference because there are only 3-4% black and, you know, how you draw the lines up in the northeast corner of the state isn't going to make any difference on a racial basis as to who gets elected. The whole area is 90% white and it doesn't make much difference. It is of

most critical concern in the areas bordering the Mississippi River.

Q. The river counties of the delta?

A. The river counties and the delta counties and there are some other additional exceptions.

Q. And?

A. There's Noxubee.

Q. Have you done an analysis of the 1971 election results, including the voting age population black and the optimum black vote?

A. Yes, I have.

Q. May I have it, please.

BY MR. PARKER: I ask that this be marked as Exhibit "3" to this deposition.

(Whereupon said table was marked as Plaintiff's Exhibit "3" and appears immediately following this page.)

[Exhibit Omitted]

• • •

[53] Q. I hand you Exhibit "3" which you have just produced, Mr. Barber. Would you tell us what this Exhibit "3" contains?

A. It contains a listing of the districts in which blacks offered for election in 1971, together with the voting age percentage of black population, my projections of optimum percentage of black votes, the percentage of the vote which Charles Evers got in 1971 and the difference between the optimum and the Evers vote.

Q. O. K., and are these counties listed in any particular order?

A. Numerically by their districts number.

Q. Now, let me just put down here column one. Well, let's take the first one—Bolivar and Sunflower. That's—I gather that the same figures apply to both of those counties?

A. No, if you'll go down below in House districts 13 and 14, you'll find them separated.

Q. Oh, I see, that's the Senate, Bolivar and Sunflower's Senate district?

A. That's right, that's a Senate district.

Q. And that's the Senate district in which black candi-

dates ran that had the highest percentage of the black voting age population, is that right?

A. That is correct.

Q. Does this exhibit indicate—what does it indicate as the optimum black vote for that senate district?

A. 46.9%

Q. And what vote did Evers get in that district?

A. He got 38.9%.

Q. And the difference is Minus 8.0?

A. That's right. Now, if you'll look below, you'll find that that difference was primarily in Sunflower County where—so that the differential in Bolivar County was marginal, 4.4, while the difference in Sunflower was 13.0. Sunflower happens to have not registered as well and happened to have a lower voter turn out.

Q. Now do these difference figures, in the extreme right hand column.

A. Those are all minus figures.

Q. These are all minuses? These figures indicating difference—confirm or refute or have any influence on your calculation of your optimum black vote?

A. They tend to confirm it. It was part of the process of verification. I took my formula and did this. I also took the alternative, using the maximum spread instead of the minimum spread and ran that by all these. When I used the minimum spread—I mean, when I used the maximum spread between black and whites on each of the factors, then I come up with them being a little closer but with five or six of them running over, so Evers got more than five or six if I used the maximum [55] spread, so I—because of the purpose for which I have done my research, want to use that figure which sets a goal slightly above, you know. I want—when I talk about optimum, I want to really talk about what you get if you work your hands off. So this tends to confirm my study, it verifies my study. We've done other verification processes such as matching the Evers vote on a continue from the highest percent to the lowest percent of the vote, matching blacks and taking black populations by the '70 census and running them from highest to lowest and drawing some lines across to see if the blocks of groupings, there is a correlation and there is a definite correlation. I tend to believe that I'm reasonably accurate.

Q. Let me ask you this. We tend to think of Bolivar as a



majority black county, in fact, a population of 61.4%, and in house district 14, Bolivar elects three representatives county-wide. Because Bolivar is a county which is 61% black, we tend to think of Bolivar as a majority black county. In your view and based on your analysis, is it possible for any blacks—is it likely that any black candidate will win in a county-wide race in Bolivar County?

A. It is unlikely.

Q. O. K., would you give us the explanation for that and based on these figures in Exhibit "3"?

A. O. K. Bolivar happens to have a lower percentage of voting age population than one would expect with a 61% over- [56] all population. It has only 53.6% voting age population. When I apply the factors, my optimum black vote percentage would be 46.2%, which is under a majority.

Q. And that would mean that, assuming racial block voting and assuming that the optimum black vote turns out and there's a minimum of spoiled ballots, does that mean that the optimum black candidate would only get the 46.2% of the turn out?

A. That's correct.

Q. And what was Evers vote in Bolivar County in '71?

A. 41.8%, which was the difference of 4.4%, which means it's reasonably close. Now, within Bolivar County, there are—all the county isn't one consistent hole [sic]. Within the county, the strength in terms of numbers is in the Mound Bayou area, the strength in terms of percentage of people registered is higher in that area, the percentage of turn out is higher in that area, and the percentage of people who vote with some consistency is higher in that area. They have, in '67 and in '71, elected a supervisor out of that area whereas they have been unable to do that in any of the other areas of the county. That concentration, primarily bolstered by the fact that Mound Bayou has always been black for a hundred years and has always had their own mayor and some experience with voting for their own mayor has made a substantial difference in the voter behavior patterns in that part of the county as opposed to the Rose Hill [57] area or Shaw, so that there is a significant difference in—in voting behavior in that particular area because of the historic black community of Mound Bayou.

Q. What district is that, by the way?

A. That is supervisor district #3.

Q. What affect [sic] does the provision for county-wide elections of three representatives in Bolivar County have on the black voting strength in district 3, the Mound Bayou area?

A. It determines that strength.

Q. Does this Exhibit "3" indicate the four legislative districts in which it was possible to elect a black candidate in 1971?

A. Yes, it does.

Q. That would be in. . .

A. Districts 11 and 16, 1-2 and 4.

Q. And in District 16, Holmes and Humphreys?

A. That's correct.

Q. Then, in fact, only one legislative candidate won and that was in Holmes and Humphreys?

A. Correct.

Q. Do you have an explanation as to why black candidate was not elected in Coahoma or in the district composed of Coahoma, Quitman and Tunica?

A. The easiest one to get out of the way is, of course, for Coahoma, Quitman and Tunica combined. Quitman and [58] Tunica have had very little registration work. They had, also, very small voter turn outs, a very low level of political activity in the black community in Quitman and Tunica County which explains that one.

Q. Could we say that that was the fault of the black community?

A. I—well, I would not say that. I would say this is attributable to the economic dependence levels and the, the—the more rural nature and the more long-lasting effects of past discrimination than in a place like in Clarksdale proper where there has been much more activity to help people work out and overcome the effects of past discrimination. And that's part of what happens in cities or in places that have a significant leader who develops—such as Aaron Henry in Clarksdale, he enabled people, through a variety of activities, to overcome their own problems, to overcome the objective discrimination of their past, so that those civil rights activities played an important part in internalizing subjectively for people their ability to overcome past discriminations. Those things could not occur in places like Marks or Tunica and that makes a significant difference.

Q. Now, have you analyzed the 1971 election for the legislative posts in Coahoma County, Posts 1 and 2 of district 11?

A. Yes, I have.

[59] Q. And have you arrived at an explanation for the loss of the black candidates in those two posts?

A. Right. I alluded to one of the losses earlier and that was the one post—post—I always get post 1 and 2 confused, I'll have to look at that; the one that Aaron Henry didn't run for.

Q. Post 1, Walter Jones?

A. Right, Walter Jones was the man who ran against the Republican and there was—in—in the Beat 4, Clarksdale precinct, which was virtually all black, there was about a 500 vote difference smaller for Mr. Jones and there was, in the north Clarksdale precinct, I think it was Beat 2, but I'm not quite sure, as I recollect, there was a smaller vote but not quite as much smaller for his Republican opponent, so that one was the one where the way in which the ballot was formulated made the difference.

Q. This was where there was no candidate in the Democratic column, the voters skipped?

A. That's right.

Q. Now, did you analyze the Henry race to determine whether or not there was racial block voting, that is that white voters in white precincts voted for the white candidate and the black voters in the precincts voted for the black candidates?

A. Yes, the white candidate, Mr. Williams, received [60] something like 98-99% of the white vote in the north part of Clarksdale's precincts and Aaron Henry received 95-96% of the vote in the south precincts that are all black; there may be three or four whites that live there, but it's virtually all black, so racial block voting was clearly the pattern that emerged from an analysis of the Clarksdale precincts that were where you can separate by race. The reason, I think, that Mr. Henry lost is that there weren't enough people registered and that that registration slippage was primarily in the rural areas which is plantation country in which there is significant difficulty in the early days of voter registration in getting people to register. So that the period of '65-'66, when, right after the voting rights act [sic], it was easier in cities than in plantation areas to get people to register with the Federal registrars for a couple of reasons: one was fear,

the other was simple distance to the place where the registrar was and therefore lack of transportation, so that there tends to be, in the rural areas of Coahoma County, a smaller voter registration percentage than there is in the city of Clarksdale. Also, there has been a significant out-migration in the Coahoma County area and I think there are a number of registered people on the books who live in Memphis, St. Louis, Chicago, or wherever, and I don't believe that there was—that there were enough registered blacks to be able to elect Mr. Henry, although I think his turnout was quite good.

[61] Q. Now, are you familiar with the publication in which objection has been made as to the racial composition of each of the state legislative districts for the 1975 election?

A. Yes, I am.

Q. Would you identify that publication?

A. It is a study called, "Population of Mississippi Legislative and Congressional Districts, 1970 and Projections to 1975" by Ellen Bryant and Sanabel El-Attou, published by the Mississippi State University.

Q. Is that an official state publication?

A. I'm not sure what the definition of an official state publication is?

Q. Is it published by the State of Mississippi?

A. Yes, It was published by the State of Mississippi, Mississippi State University.

BY MR. PARKER: Let's take a five minute break at this point.

(Whereupon the deposition was recessed for a brief time.)

(Whereupon testimony to the deposition resumed after the break.)

Q. What projections does Ellen Bryant and her co-author make in the publication to which you have referred?

A. She takes the migration and death rate and birth rate, patterns of the '60's and projects them into the '70's, based on statistical formula and comes up with what she projects to be the population of each legislative district mid-way through [62] the ten year period.

Q. In other words, for 1975?

A. Yes.

Q. And is this voting age population or total?

A. Voting age population but she also shows total population but voting age population, yes.



Q. O. K., she does it based on census data; she does a projection of the racial composition of the voting age population for each of the state legislative districts for the house and the senate for 1975, is that correct?

A. That's correct.

Q. Now have you performed an analysis of that data using your formula for determining the optimum black vote?

A. Yes, I have.

Q. Would you hand that to the court reporter.

BY MR. PARKER: I ask that this be marked as an exhibit to the deposition.

(Whereupon said document was marked as Plaintiff's Exhibit "4" and made a part of this record on the following page.)

[Exhibit Omitted]

[64] Q. I hand you Exhibit "4". Would you tell us what Exhibit "4" is, please, Mr. Barber?

A. Exhibit "4" sets forth the black voting age population to the percentage of the total population for 1975 as projected by the Ellen Bryant study and, in a second column, the optimum percentage of black votes for each of the legislative districts in which somebody offered—in which a black person offered to run in 1971.

Q. Now you said that the first column there is—black voting age population as a percentage of the total population, is that as a percentage of the total overall population or a percentage of the total voting age population?

A. Total voting age population.

Q. In other words, so for district 11, which consists of Bolivar and Sunflower Counties, blacks who are eligible to vote or voting age population or 52% of the total voting age population?

A. That's right.

Q. Based on your review of the Ellen Bryant data, are there any legislative districts in which blacks constitute a majority of the voting age population?

A. Yes, there are.

Q. What districts are those? For 1975?

A. For 1975, the voting age population majority—in the senate, districts 11 and 12; in the house, districts [65] 11, 12, 13, 14, 16, 28, Madison alone, and 32.

Q. In each of these districts, is the optimum black vote less than the black voting age population percentage?

A. That is correct.

Q. And that is the result of the factors you have described?

A. That is correct.

Q. Disproportionately lower black voter registration disproportionately lower black turn out and disproportionately higher percentage of spoiled ballots in black precincts or cast by black voters?

A. That's correct.

Q. Have you performed an analysis, using your formula, on the 1975 black voting age population in each of these legislative districts?

A. Yes, I have.

Q. And what were the results of your analysis?

A. The results of my analysis is that the Holmes and Humphreys County representative's district #16 still has an effective black voting majority at 51.0% and that all other districts would fail—would not have a voting majority, an effective voting majority.

Q. What kind of voting majority?

A. You'd have to have 50% or better to win.

Q. Who does?

[66] A. Anybody who wants to win.

Q. Is this racial?

A. Yes, there's no black effective voting majority in any district other than district 16, based on these projections.

Q. Is it likely that any black candidate for a legislative position in the house or the senate in 1975 will be able to win election in any district, other than district 17 for the house?

A. District 16.

Q. District 16 for the house?

A. No, it is not likely.

Q. In each of these legislative districts for the senate or the house, do you know whether or not, in each of these counties and each of these districts, there are substantial concentrations of black population, black voting majorities within the districts?

A. I can't say that for each and every one. I could say that for some of them and would be glad to.

Q. O. K., which ones?

A. O. K. In Bolivar and . . . oh, well, district 11, senate, district 11, Bolivar and Sunflower; district 12, Washington and Humphreys; district 25, Adams, et al. There are—and depending on—well, then district 18, Oktibeha and Noxubee, depending on how it was done, could. There are significant [67] geographical distribution within that large an area, so the answer could be yes there. In Hinds County, they're definitely are. District 22 there is substantial numbers of blacks concentrated. In the house districts, Coahoma-Quitman-Tunica district, there are portions which would have an effective black majority, yes. In Tallahatchie County, no, although with the western portion of the county has a sufficient concentration of blacks, it doesn't have a sufficient population to warrant by itself a representative seat. In Sunflower there are; in Bolivar there are; in Humphreys, yes; in Clay County, no, unless it was—not the way the district is now constituted. Lowndes-Oktibeha-Noxubee, yes, there are, especially in the area in which the three counties come together, near the Tombigbee River, there. In Madison County, yes, there are, especially if you take out suburban Jackson, which is what throws the balance. In Hinds County, there are; Jefferson and Copiah, there are; Pike County, there are not; in Marion-Walthall, there are not, or at least not significant groups of blacks who would be numerically sufficient to also elect—be entitled to a representative as the districts are now constituted. There are other districts, other than these for which the same could be said, namely LeFlore County in both house and senate and that strange four-five county one with Holmes, Yazoo, in the center, which has an effective minority now but would have a majority in part, if it were divided up. Those, I think, are the only two other excep- [68] tions. Let me double check my notes right here.

Q. That would be Holmes, Issaquena, Madison, Sharkey and Yazoo, district 15 in the senate?

A. That's correct.

Q. Elects two senators?

A. That's right.

Q. Now, you mentioned. .

A. I was going to say—the Washington-Issaquena one,

representative of district 15 where it subdivided—and representative district 29, which is Sharkey-Yazoo.

Q. You mentioned the combination of Marshall and DeSoto?

A. Yes.

Q. Is it currently possible for a black to be elected in that representative district?

A. No, it is not.

Q. Are there sufficient concentrations of black population with the black voting majority within that district that would be sufficiently large to have independent representation?

A. Yes. Almost any way you divide up Marshall County, there would be, portions of eastern DeSoto County and western Benton County are predominantly [sic] black and any combinations involving those would yield an effective voting majority. It's only when you add the suburban Memphis portion of DeSoto [69] County that you throw it out of whack.

Q. In the house, Wilkinson, Franklin and Amite are combined. Have you done that calculation for that house district?

A. Yes. They have a voting age population white majority but there are pockets—that's not pockets, it's bigger than pockets—there are blocks of people that could, if the lines were drawn differently, elect blacks, yes. Blacks in that particular district—about 45% voting age population in the district as a whole, but Wilkinson County is about 60%.

Q. So this exhibit, Exhibit "4", only covers those districts in which blacks ran for the legislature in 1971?

A. That's right. All these districts will be subsequently divided in some way. Blacks ran in almost all the districts in which it was theoretically possible to run and in some which it was not theoretically possible, according to the districts that existed in '71.

Q. With what result?

A. Everybody lost except Robert Clark.

Q. Were you present during the 1971 regular session of the Mississippi Legislature?

A. Yes, I was.

Q. In what capacity?



A. On what date? Yes, I have something—some notes that, if I can find them—and refer to them.

[70] (Mr. Barber checks briefcase for notes.)

BY MR. BARBER: I found them.

Q. Can you tell me whether or not there was an effort made to obtain state legislative reapportionment providing for single member districts?

A. Yes, there was.

Q. Were you present on that occasion?

A. I was present on that occasion.

Q. Did you observe the proceedings?

A. I observed the entire proceedings.

Q. Could you tell us what happened?

A. Yes.

Q. And when and where?

A. The date was, it was in February, I believe it was a Tuesday, and I believe it was the 23rd. I don't have a calendar in front of me. .

Q. 1971?

A. Yes, 1971.

Q. O.K. what happened? This was on the house side?

A. This was on the house side. House Bill #515 was up for consideration and I had been asked by Representative Robert Clark the week prior, to develop some things for his use in that debate and with his constituency back home to interpret his actions and had done so. We had done a number of calculations on the question of single member districts and a number of [71] looks at House Bill #515 in the form it came to the floor and then wrote—we wrote two things. One was an interpretative piece for them to distribute to the constituency, which I have a copy of, if you want it. The other was two amendments to that, to bring to the floor, the question of single member districts. On that day, I conferred with Mr. Clark, went over the amendments, went over the discussion of the meaning and then I took my place in the south gallery and he took his place on the floor. House Bill #515 was called up for consideration, somebody got up and made amendment #1 and during the discussion, Mr. Clark offered a substitute amendment, which was this document right here.

BY MR. PARKER: I ask that that be marked as an

exhibit to the deposition, please. (Whereupon said document was marked as Plaintiff's Exhibit "5" and appears immediately following this page.)

[Exhibit Omitted]

[73] Q. I hand you Exhibit "5". What is that?

A. This is an amendment which was offered as a substitute for amendment #1 to House Bill #515 in the Mississippi House of Representatives.

Q. What did this amendment #1 provide for? The substitute amendment provide for?

A. This substitute amendment provided for single member districts to be determined through a computerized process at the R&D Center, in such a way so as not to dilute the natural geographic grouping of persons on a racial or economic basis.

Q. And what happened to this amendment?

A. It was defeated on a voice vote, overwhelmingly. I would judge, from my observing who opened their mouths and listening to the noise that was perhaps 10% of the people who voted for it and 90% against.

Q. Was a subsequent effort made to provide for single member districts?

A. A subsequent effort was made later on in the debate and that in an amendment offered by Mr. Clark again which is this one right here.

BY MR. PARKER: I ask that that be marked as an exhibit for the deposition.

(Whereupon said document was marked as Plaintiff's Exhibit "6" and appears immediately following this page.)

[75]

[Exhibit Omitted]

Q. I hand you Exhibit "6" and ask if you can identify that, please.

A. Yes, this is an amendment which was made on the floor by Mr. Clark to House Bill #515.

Q. This was also the '71 session?

A. During the 1971 session.

Q. During the same debate?

A. Same debate, same day.

Q. What did this amendment, Exhibit "6" provide for?

A. This provided that all those districts which were in #515 that were multiple member districts would be subdivided to make for single member districts.

Q. What reason did Representative Clark give for offering these amendments?

A. Representative Clark was trying to keep the racial question out of it as much as possible, what he feared from his comments, from talking with people, that race was too much of an issue, and stressed constitutionality and rural versus urban questions in his discussion of the amendment. It was during the discussions of the amendment, the floor was a little bit noisy as it sometimes is, and he was not being listened to very attentively [sic]. Representative H. L., "Sonny" Meredith was up near the podium and went over to Bob, read the amendment over carefully and strode to the podium and asked for the attention of the Speaker and the members of the house and [76] made a little speech. His speech was, in essence, 'this is a very important decision which we are about to make. I'm going to vote against this amendment, but I think we all ought to understand exactly what it means,' and he then explained what the amendment meant in terms of single member districts concept. The amendment was then voted upon and was voted down by approximately the same ratio on a voice vote. The discussion. .

Q. What reasons were given in opposition to Exhibits "5" and "6"?

A. There were no real reasons given.

Q. From your understanding of the debate and of what was said, what would you conclude were the reasons for the opposition?

A. There was—there were two things that predominated in the discussion of all the amendments on the floor, including these and those two factors that came up again and again were, 'can we pass the court', and there was some argument over what would pass the court's eye. And the other was, 'how do we preserve our seats' and I would think that those were the two really open concerns of the House of Representatives on that day. Those concerns took a number of forms, especially the latter concern, in which there were a number of amendments primarily designed to give a post number within multi-member districts

for—that was designed to give the existing member of the legislature some greater security when running for [77] re-election that year.

Q. Is that a post or residency requirement?

A. Well, by post, it does not—there were two varieties offered in the number of instances. One variety was the pure post system which would be elected from your county and live in your county. .

Q. So it's a county residency requirement?

A. The other kind of post was county residency but vote at large in the district so that there were two alternative kinds of post amendments introduced, almost all of which passed, and which the design was clearly on the part of the authors to protect their re-election possibilities and it appeared from the discussion that the thing most fearful about single member district was that these amendments made it unclear as to exactly where the lines would be, where the people—what post a person would be, therefore, eligible for, who you would run against and what your constituency would really be and that this uncertainty, more than anything else, seemed to dominate the minds of the legislators in this and that in an election year.

Q. Have you been asked by Representative Clark to assist him in his legislative duties subsequent to the 1971 session?

A. Yes.

Q. Has Representative Clark attempted to introduce [78] amendments or legislation providing for single member districts since 1971?

A. I don't recall it being put in, you know. It's been in court since that time and we've kind of waited for the court's decision to act. He has put in other election kind of laws but I don't believe he's put in any of this nature, to the best of my knowledge.

Q. In your workings with Representative Clark, have you had an opportunity to observe the legislative processes and the actions taken by the Legislature in Mississippi?

A. Yes, with some—yeah.

Q. During what period of time? When did you start working with Representative Clark?

A. In '68. I've observed legislative sessions quite often, committees sometimes, and had individual discussions or small group discussions with members of the legislature



from time to time, and I think I have a fairly decent feel for the process and the sentiment on the floor of the house.

Q. Based on all your experiences, observations, would you tell us whether or not the Mississippi Legislature is sufficiently responsive or is responsive to the particular interests and needs of the black community in Mississippi?

BY MR. BRYANT: Would you note our objection to. .

BY MR. PARKER: The form of the question? [79] The form of the question or the substance of the question?

BY MR. BRYANT: The substance is our objection.

BY MR. PARKER: You can reserve your objection to the substance, just the objection to the form. Would you answer the question. He didn't object to the form of the question, so you can answer it.

A. Well, O.K. There is some sensitivity about overt racism. There is one instance that I can recall in which one of the members said "nigger" in a debate over work release program last year, in which Mr. Clark felt that his obligation and duty was to stand up and chastise the member for using the word and—but that's the only time that I've been present that I can recall such an overt thing being said. There are a number of issues that get defined in—in a racial manner from time to time and, on some issues, I'm trying to recall a couple, there've been a couple, bussing issues on the floor, a couple of voting rights issues on the floor in which the legislature, the house of representatives has passed resolutions, asking the U. S. Congress or the president to do something about racial problems. Those have tended to pass, to the best of my recollection, with never more than four people voting in opposition.

Q. You were a little vague in your description about [80] the resolutions. Were they resolutions designed to serve the interest of the black community?

A. No, these were resolutions designed to—ask congress to pass something so that there will be no more school desegregation and we can go back to our neighborhood schools, which amendment passed a hundred and something to three or four and I can't recall which. There have been resolutions to have the voting rights act overturned by congress, which have passed, again, overwhelmingly. I can't recall the exact vote, so that on issues that are clear cut like

that where race is a primary factor, Mr. Clark has not been able to muster the support of more than three or four other people on the floor.

Q. To your knowledge, has Representative Clark attempted to introduce legislation that would have served the best interests of the black community which legislation was not passed by the house of representatives?

A. Yes, Mr. Clark has introduced a goodly number of bills and substantive issues pertaining to the interest of the black community.

Q. Could you give us some examples of those?

A. Yes, I could. He has introduced some fair employment practices bills which have died in committee; he has introduced some bills on voting rights which have died in committee; he has introduced compulsory attendance which has always been racially. .

[81] Q. Is that compulsory school attendance?

A. Compulsory school attendance.

Q. What happened to that?

A. Those have all died and clearly in the informal discussions because of race. He has introduced bills pertaining to welfare which have died in committee. He has introduced bills. I recall one, to put a school of social work at Jackson State, which subsequently was placed—the bill died in committee and the school, graduate school of social work was placed in the University of Southern Mississippi rather than at Jackson State.

Q. For the record, would you identify the racial composition of those schools?

A. Jackson State is a predominantly black institution and Southern Mississippi is a predominantly white institution. He has introduced a bill to guarantee the right of every student to attend the public schools, the so-called right to education bill, which has died each time. In fact, he has been unable to pass—to get passed, any of his legislative programs.

Q. Was there one bill that he was successful in securing passage of?

A. Yes, it had to do with fox lures.

Q. Was there another bill dealing with sickle cell anemia passed?

A. Right.

Q. Tell me about the sickle cell anemia bill?

A. It was a bill which Representative Clark developed from a model prepared by a national black caucus of legislators and which he introduced and which subsequently passed to do sickle cell anemia screening in the public schools.

Q. Did that bill permit a racial classification?

A. It allowed the schools to test only the black children, yes, with the presumption that whites did not have sickle cell anemia.

Q. Generally, how has Representative Clark's legislative programs fared?

A. Poorly. I think—he has, even though he's been there eight years now, only been chosen to lead floor discussion once on any bill, although numbers of people who are less senior than him have had more opportunity to take part in that. He has never been named to a conference committee, although others, more junior than him, have. He—he is—he's had some good influences; he brought the first blacks to be pages and has influenced some other legislators to, in fact, have a black page from time to time. He has loosed up a number of things, simply by being the one black there, so that they have to deal with, at least his presence, as symbolic, the fact that there are black people in the State of Mississippi. By and large, he's lost the arguments where he was working hardest for his broader constituency of the black population. He's lost behind closed doors in committees. There is no public record.

[83] Q. Is there a desk beside the desk at which Representative Clark sits?

A. Every legislator in the House of Representatives shares desk space except Robert Clark. There is a vacant, empty seat next to his.

Q. I'm sorry, I didn't hear. .

A. There's a vacant, empty seat next to his.

Q. What objection to single member districts is that it would require counties to be split and the legislative boundaries of the districts possibly would either be within the county or it would cross county lines. From you [sic] experience in Mississippi and based on your extensive knowledge of political organization, economic organization in Mississippi, are there political units or economic units within the State of Mississippi which comprise areas within the county or which cross county lines?

A. Yes, there are.

Q. What units are those?

A. I'll give you a couple of examples which I touched up my maps of. One of the longest historic ones has been the levee district; the Mississippi Levee District and the Yazoo Levee District, which—the Mississippi Levee District cuts through Humphreys County, the Yazoo Mississippi Levee District cuts through the middle of Tallahatchie, part of LeFlore, part of Holmes, part of Yazoo, and the corner of where [84] Warren and Issaquena come together, and this—this map would show those lines.

BY MR. PARKER: I ask that this be marked as an exhibit to the deposition, please.

(Whereupon said map was marked as Plaintiff's Exhibit "7" and appears immediately following this page.)

[Exhibit Omitted]

[86] Q. Would you identify Plaintiff's Exhibit "7" again, please, Mr. Barber?

A. Yes, it is a page from the Mississippi Blue Book and I have added to that page the Mississippi Levee District as indicated by the number "4", and the Yazoo Mississippi Levee District as indicated by the number "5", and have drawn them according to specifications that are found elsewhere.

Q. What is the function of these levee districts? What kind of function do they perform?

A. They have some taxing authority and they were originally put there to build levees and keep the water from flooding out the farmers in the Delta.

Q. Do you have other instances of political subdivisions, state corporations or public units crossing county lines?

A. Yes, I have the consolidated school districts, which this map represents.

Q. O.K. Could you mark the original as. .

BY MR. PARKER: I ask that the original be marked as an exhibit, please.

(Whereupon said map was marked as Plaintiff's Exhibit "8" and appears immediately following this page.)

[Exhibit Omitted]



[88] Q. I hand you Exhibit "8" and ask you to identify that, please.

A. This is a map of the consolidated school districts of the State of Mississippi.

Q. What is the source of information.

A. The source of information is the State Department of Education's designation pursuant to the Mississippi Code. There are two kinds of consolidated school districts here depicted. One is a simple consolidated school district, which is the dividing of a county into two or more consolidated school districts. The other is what is known as a line consolidated school district.

Q. Are they also called county line consolidated school districts?

A. Well, the Code calls them line consolidated school districts and they cross county lines and examples of those to be found in this case are up in the Lee-Monroe County area, which is the Nettleton line; the Washington-Issaquena-Sharkey area in which you have several of them. You have the western line district; you have the Sharkey-Issaquena district; and you have the Holly Bluff district, and the other example is that in the Lamar-Pearl River area, which I believe it's the Lumberton line consolidated school.

Q. In other instances, the consolidated school districts take up a portion of the county?

[89] A. A portion of the county, ranging from two to six in Bolivar. There are six of them in Bolivar.

Q. So Bolivar is sub-districted for school purposes?

A. Yes.

Q. For election of J. P.'s, constables, members of the boards of supervisors?

A. Right, and judicial districts.

Q. And the judicial districts and the only case in which Bolivar is not sub-districted is for what?

A. For legislative purposes.

Q. For legislative elections?

A. Right, in which they are multiple.

Q. Bolivar is a multi-member district?

A. It is a multi-member district. There are other examples and it's hard to pull them out perhaps but soil conservation districts cross county lines, that's a Code established districting. There are some other districts that

subdivide counties or cross county lines. I don't happen to have maps of them.

Q. Are there towns in Mississippi which cross county lines?

A. Oh, yes, there are towns in Mississippi which cross county lines, I forgot about that. Hattiesburg is both in Forrest and Lamar County. Crenshaw is both in Pinola and [90] Quitman County, and probably some other examples that don't pop into my mind at the moment. There are several. It's very interesting how it works out. When I was looking at the Federal Revenue Sharing disbursements which are first assigned to counties and then to cities as a proportionate county and so that Hattiesburg, for example, gets—Forrest County gets the money and then the percentage of Hattiesburg that's in Forrest County gets a percentage of that money and then Lamar County gets some money and then the percentage of Hattiesburg that's in Lamar County gets a percentage of that money and it works, and it all goes into the pot and it doesn't seem to bother anyone. They just divvy up the money just fine: it doesn't seem to be any problem. But Hattiesburg Municipal Separate School District also crosses that county line, for instance, so that you have that—there's a municipal school district that crosses a county line, and we're talking about taxing. A taxing body, there's a sizeable variance in the appraisal practices and the tax levy in the two counties and the two counties vis-a-vis the city and nevertheless, it seems to work out all right.

BY MR. PARKER: You may cross examine.

#### CROSS-EXAMINATION BY MR. BRYANT:

Q. Mr. Barber, what courses did you take at Coe College? I believe you said you majored in Political Science?

A. Yes.

Q. What courses in Political Science did you have?

[91] A. You're asking me to go back a good number of years, now. I took some in American Government, in county and local comparative [sic] studies, in theory and I had some seminar research type courses.

Q. Did you have any post-graduate work in Political Science?

A. Yes.

Q. And what was your graduate degree in, again?

A. I have a theological degree, Princeton Theological Seminary. I did not complete a post-graduate Political Science course. I initiated it and quit because the engine block on my car cracked. (Laughter)

Q. I've seem [sic] them drop out for. .

A. For economic reasons.

Q. Mr. Barber, you've been in Mississippi, I believe you said, ten years?

A. Yes, sir.

Q. Has most of the work in your present field that you're in been more in practical work? Have you had any studies or courses in statistics and voter statistics?

A. It's been practical, applied work, yes and experience more than courses.

Q. You testified as to the role you've played in various workshops, in assisting voter registration and things of that nature. Has most of your time, during the past ten [92] years that you've been in Mississippi, been devoted to that or have you been in a position of a statistician or compiling data?

A. I've been in a position of also compiling data on a variety of other matters and—and putting out reports based on those, mostly in the Health, Education and Welfare area, as well as the voting area.

Q. What percentage of your time, would you say, you devote to compiling data and coming up with various statistics for all these aspects?

A. I'd say maybe 40%—40%—I've never done an efficiency study.

Q. Now, Mr. Barber, you have testified that—I believe you used the percentage of 3%, as the percentage for blacks—of whites voting for blacks, is that correct?

A. That's correct.

Q. All right, now.

A. I used several numbers there. I don't recall exactly my direct testimony. I said that was the maximum that one could expect outside of a few selected areas.

Q. This was whites voting for blacks?

A. That's right.

Q. All right, now, I must have missed—how did you arrive at that figure, 3%?

A. By taking selected all white precincts and seeing how many votes blacks got in those precincts, as a percentage of [93] the total vote in those precincts, and then looking at some virtually all white counties to verify this data. In other words, I might look at it in an all white precinct and say, "well, do whites act differently when they're in a mixed precinct," and see if there is any correspondence, and I find that there is a correspondence, so it tends to verify itself.

Q. Do you know which—how many counties you studied to arrive at this figure?

A. Ten or twenty, somewhere in there. I've looked at—in terms of looking at precinct data, I've done a study in Jackson, McComb, Clarksdale, Greenville, I'm trying to recall, well, where else, in northeast Mississippi in terms of black.

Q. Has this been a continuing study?

A. Yes.

Q. Did you arrive at this recently? I know it's not a firm figure but. .

A. It's a continuing study.

Q. Have you seen any variations from the time you arrived in Mississippi and presently?

A. In that fact? No.

Q. In that particular fact?

A. No significant variation, O.K.? There are some minor variations. As I think I said, there's some north Jackson precincts that vary a bit from south Jackson precincts. [94] There are—and I said—but the one startling example is the coroner in Clay County, who got half the white votes and nobody knows why.

Q. Is that the only situation you've run across?

A. That's the only time, yeah, that it's exceeded 10%.

Q. And I believe you testified that 90-95% black voted for black?

A. Um-huh. In some cases it's much higher than that. We found some precincts where it was 99 point something.

Q. This was the average?

A. My average, right, and we then correlated that with predominant counties to see if that fact verified itself out and it did.

Q. This may seem like a simple question to you, but to me it's not. Maybe it's because I'm not that familiar with



it, but what are the—and you testified to this—to what factors—to what do you look to, rather, to determine how a person voted, be he black or white? In other words, whether a black voted for black or a white voted for white, other than where you have a precinct that is virtually all white or virtually all black?

A. Well, what you do is you take the all white and the all black precincts and you come up with your formula and then you put the two together in a percentage. .

[95] Q. Now how do you arrive at your formula? Let's get real basic.

A. Well, I've gone through that, in direct testimony.

Q. Well, I missed it.

A. O.K. If, in fact, let's take a simple example so we can do it as easy as possible. If, in fact, 95% of the blacks in the all white precincts—in the all black precincts sampled, voted for the black candidate. .

Q. Now how can you determine that?

A. By looking at the results and knowing the—and the census data to know that it is, in fact, an all black precinct. Also by having physically been present at some of them and seen what the composition of their voters were. Looking at their faces. We've determined that 95% of the blacks voted for Evers, let's say, and that in the white precinct across town, 95% voted for Waller. Then we got to a mixed area in which we know the mixture and we then put those two things together in the mixture of the numbers that we know by census data happen to be there and see if it comes close to what the outcome was. If it comes within two or three percentage points of the outcome, then we figure that it is statistically correct.

Q. So you would consider it to be reliable if it were within two or three percent?

A. Um-huh, yeah, so that we do not expect Mr. Evers to get very many votes in Tishomingo County; in fact, he doesn't [96] We would not expect, you know, in some majority black areas, Mr. Waller to have gotten very many votes and he doesn't and they seem to work out roughly approximating the percentages by the formula which I have gone through earlier.

Q. Now I think where I'm getting confused, Mr. Barber, is on these mixed areas. Now, however you determine in a mixed area, what do you have, a certain percentage of blacks

and whites, whether a black voted for a black and a white voted for a white? Now that may be real basic, but I. .

A. All right. Well, there are a couple of—I gave you some statistical probabilities, was my first level of answer, was a statistical probability based on our experience in all black and all white situations and that tends to verify, statistically, we don't know for certain, but it gives us a great deal of probability. Now, the other way in which we have of examining this fact is to field-test some—well, do some field testing. Now one of those is to look at challenged ballots of people who—who voted. They come up and they're told that their name is in the poll book and they are given a challenged ballot. Their name is written on the outside of that ballot and some other data as to the reason for the challenge. Those ballots are then segregated from the other ballots and are counted separately, usually at the—canvassed the following day. You know, within a reasonable period of time. I think the law gives them ten days. Now, what we've done in [97] some instances is go through the challenged ballot, write down the names of everybody that has a challenged ballot and the other data from the envelope and then attempt to find the people, (O.K.!) and determine who they are. Then, I can think of one instance in which each and every challenged ballot was a black person, then when those ballots were opened, the vote pattern would indicate the way in which black people voted that day. In a similar fashion, we have done the same thing with absentee ballots. You take the list of absentee ballots, you attempt to determine who they are. There are instances that I can recall that—where they were all white. You'd determine the race of those people. .

Q. How did you determine the people? Did you go to them or what? Just by their name?

A. By their name and address, on the thing: didn't necessarily go and look them in the eyeball and say, "are you white?"

Q. But from the name and address?

A. The name and address, you felt usually, especially in small towns—now one of these was Hollandale, Mississippi, which is not too hard to figure out who is black and who is white in Hollandale, Mississippi. There aren't that many people there and everybody knows each other; it's pretty

easy to determine by address and by name who is black and who is white on a list of twenty absentee ballots.

[98] Q. And in how many counties would you do this?

A. We've done this for four or five counties.

Q. Four or five different counties, or several counties four or five different times?

A. Four or five different counties. We've not done it extensively but it tended to substantiate the same position, in that the whites voted white and the blacks voted black. And these are people who, as a group, we knew their race, we know there weren't any mixed precincts and, as a group, we knew their vote, even though it was in a mixed precinct and this tended to confirm that blacks vote black and whites vote white.

Q. All right, I believe you testified earlier, Mr. Barber, concerning the low percentage of black votes in, I believe it's district 11, house district 11?

A. Yeah, I said that there are four counties which had significantly low black voter turn outs in 1971. Those counties were Tunica, Quitman, Sunflower and LeFlore. Two of those are in district 11.

Q. Refer to Exhibit "3" if you would.

(Does so.)

That's the '71 data?

A. That is the voting age percentage black voting age percentage. That is correct.

Q. O.K., now, Mr. Barber, this first column is the voting age percentage, black voting age percentage?

[99] A. Correct.

Q. Now how was that—for example, 54.3% for Bolivar and Sunflower, that's district 11, senate district 11, how was that figure arrived at?

A. You take the census data and add up all the people who are eighteen and over by race and compute it.

Q. Well, how do you compute it then?

A. You take and add up all the blacks, well, it happens to be black male and black female and white male and white female; you add the blacks—you add the black male to the black female for each of the two counties into one number; you add the white male and the white female in each of the two counties into another number; you add those two numbers together for a total. You then divide the black by the total and you come up with the percentage.

Q. All right, now how about the optimum percentage of black votes?

A. That's by applying my formula, my—that at minimum, there is a 10% difference between the black registration and the white registration and between the black turn out and the white turn out, and there's a spoiled ballot ratio of 4% to 1%.

Q. All right. This formula that you arrived at, is that based on samplings in strategic areas of the state or is it from the state as a whole?

[100] A. It's done several ways. Again. .

Q. I know that you testified to some of this but. .

A. I begin by looking at samplings of identifiable black and white precincts to get the voting patterns. I concentrate particularly on areas in which we know population, in which there is census data available. We then apply that to other areas to see if it seems to correspond and then apply it to the state as a whole to see whether roughly that is a reasonable approximation of the general voting habits and while there are some differences around the state, this is a general average—average, I guess, is the best term.

Q. When was this prepared, this Exhibit "3"?

A. The sheet of paper was prepared. .

Q. Well, let me ask you—when did you arrive at these figures?

A. Oh, Subsequent—shortly subsequent to the '71 elections and I had kind of updated it from time to time in—as other elections have come along to see if they correspond, so that I'm looking at the same precinct over a period of four elections to see if behavior seems to be changing. And so there have been some modifications of this.

Q. Do you recall in which particular areas you've had to modify this? Have you had to modify it as to, let's say district 22? Hinds County?

A. Oh, no. No, not—when I say—I will take [101] this and I will look at another election and see if it roughly corresponds as I look at particular precincts and I have not seen any significant change. There have been minor changes in voting behavior.

Q. That doesn't affect your formula?

A. That doesn't affect the formula. I was not sure what the—and I'm still not sure until after the '75 elections, what the full effect of the 18 year old vote will mean. I don't



think it's really been tested, so I have some reservation, especially the University communities and in other communities to see whether the absentee ballot law does get utilized. You know, there are those variables that I am not sure, they haven't been law long enough to really solidly say this is what happens. That "X" percentage of college students register at the college and "X" percentage register at home. I don't—I haven't formally figured that out and that's been something that's kind of bothered me in the back of my mind but I haven't had a particularly good place to test it because I don't think the last couple of elections have had a significant turn out. In fact, nationally they are saying that that age group seems to be pretty apathetic. I've seen nothing—I've looked at those areas but I haven't seen anything in those areas that would lead me to change my formula yet. I may, in '75, see some changes occur but I don't know.

Q. Mr. Barber, in reference to Exhibit "4", Plain- [102] tiff's Exhibit "4", I believe you arrived at these percentages based on Ellen Bryant's projected studies?

A. Yes, sir.

Q. What variables were there between the figures arrived at in Exhibit "3" and Exhibit "4"? Do you follow the question?

A. Yes, yes, I do. The variable is, that I think it is, and Ellen Bryant thinks it is, unrealistic to use the '70 census in 1975 as a realistic pegging of where the population is. There has been some movement of population; there is the death rate; there is the birth rate; there is an in and out migration rate; so that she has adjusted her population projections to 1975, based on the most recent ten year period, '60-'70 movement of population, birth and death rate. Those factors then change the voting age population percentage black and white. The rest of the formula is the same.

Q. All right, so everything else remains the same with the exception. .

A. Everything else remains the same.

Q. So, you haven't changed your formula any, which I'm sure you haven't, and you haven't—have you taken into account any changes in just practical situations, for instance, like—I believe you testified that in Coahoma, Quitman and Tunica, there was a—even though it's heavily populated with blacks, that it's a poor, poor voter turn out

and that you [103] cited some reasons for that. Have you seen—in other words, there is a five year span, or less than five years, have you seen many changes, say, like in that particular area where the percentages would possibly be higher as to the optimum percentage of black votes for, let's say, the house district 11?

A. O.K., there has been some growth and political sophistication in that area. If you note that they fall well below the—what I pegged as optimum and that—so there's a lot of room for growth, one might say, so that any growth would tend to bring them closer to the optimum. However, I also note some factors which would lead me to believe that they—well, some negative factors. .

Q. That were not present when you. .

A. Well, they—that are, at least, continuing to occur in that, for instance, economic stability is—is one factor. During the month of January, those counties experience, those three counties experienced in aggregate an increase in unemployment over December of more than 100%. Now that leads me to believe that there is economic instability in that area, which would be a negative factor toward any growth and political sophistication. My feeling is that the two are interrelated, that economic stability tends to correlate with voter participation patterns.

Q. Did you view any of these other districts which are—as far as that aspect is concerned, unemployment, I mean [104] recently, as of January, say?

A. I just completed—I'm trying to do a study relating—correlating some unemployment things with some food stamp problems the people are having and I don't have those notes at my fingertips, they're on my desk, but a number of the counties with—that were far from the optimum, have had great changes in employment, had them up and back down. These would have been occurring mostly in these smaller towns where there's not been any steady growth. You'd have the establishment of a plant which would hire 200-300 people and then six months later, they will lay off half of those. That creates instability, maybe an overall growth in manufacturing employment, but many of these small towns had a growth period around 1970. I think it clustered around that year, and are now experiencing a decline so that a number of persons are significantly

having an unstable situation in their economics, especially these small towns and smaller county seats.

Q. In terms of percentages, how would something like that one isolated aspect affect the optimum black voting percentage?

A. Well, it's my feeling that it makes it harder to reach your optimum. You see, the optimum is that if all conditions are fine and you work hard and if you're having economic instability in your community or if some other situation is occurring that causes you to have less than optimum capability, [105] your actual voter participation pattern will decrease.

Q. Would that increase or decrease employment of an appreciable amount, 100% in Coahoma County affected a tenth of a percentage point or two-tenths or three-tenths, as far as the optimum percentage of black vote?

A. It's not going to affect the optimum percentage, but it's going to affect the real percentage. I'm going to hold to my optimum, (O.K.!) because optimum is saying if all things work well, (O.K.) not taking into account day to day differences that occur in that particular community.

Q. O.K., but how would it affect the black. .

A. I think that it realistically would affect the black voter participation in the degree larger than the actual loss of jobs because it creates, in the community, a sense of instability. I've not done any factoring to see whether a hundred jobs affect five hundred people or two hundred people, in terms of where . . but people are worried about it. Makes people act a little more cautiously, if two of the relatives are out of work, you know, even though they are just distant cousins, they know about it and they're a little more cautious about taking the chance that they might lose their job.

Q. Let me ask you just a couple of questions in regard to Exhibit "7" and "8". Were these the only—as you have listed on the side, crossings for dividing counties and crossing county lines—how many other situations are you [106] personally familiar with where counties are divided for political subdivisions?

A. I mentioned the soil conservation districts. Counties are divided for judicial districts. I also mentioned cities, we talked about cities that crossed county lines and all I

did was attempt to see if there was a precedent. I didn't press for. .

Q. Let me ask you this question, then. Based on. .

A. I didn't do an exhaustive study to see how many examples there are. I'm sure there are more. I know that I've looked at lists of districtings and there are gobs of districts.

Q. Well, can you—based on your knowledge and the studies that you have or made in the political science field, would you say that there is a direct analogy between consolidated school districts and legislative reapportionment plans? In other words, if you could do it in one, would you have as few problems in a situation where you had consolidated school districts as if you did it for the state?

A. I would think that you would have less problems with legislative reapportionment than you would with consolidated school districts.

Q. What reason would you cite for that?

A. I'd cite in that consolidated school districts tax at independent rates and expend money. They have budgets and money and their daily ongoing functions and they have to [107] operate school busses and, you know, there's a whole range of things that they have to do that have to be figured out. They, not only have to hold elections by some different kind of methodology, they hold them on a different day and they hold them in different voting places and have their own separate system, which they've established. They run that election process different from any other kind of election there is in the State of Mississippi that I know of and they've done that, which is more difficult, because they have to set up a whole independent process for that. Not only do they do that, which is not all the differences it'd make in terms of the legislative thing, but they have the financial thing. They have to figure out whose property, some people's pieces of property is cut across by these particular lines and who is going to assess the property, what tax rates are going to be applied to the property, they don't all apply the same tax rates; how are they going to equitably and justly raise the taxes for that particular self-contained unit. They have to run their schools on those taxes and they have to figure out a way to do it, and that's a whole lot more difficult than running for office for a legislative seat. They



also have to spend their money to serve all the constituents of that geography, so I think they have—it's much more difficult to have consolidated school districts than it is to have—crossing a county line than it is to have a legislative district cross a county line.

[108] Q. What problems do you see, if any, in having legislative districts cross the county line? Do you see any practical problems in that?

A. Well, I think the only problem is tradition.

Q. That's the only problem?

A. Yes. You know, it's traditionally—Hinds County has had "X" number of representatives who have supposedly represented the entire county and for a legislator to adjust to serving his 18,171 people instead of trying to serve 200,000 or whatever it is, is an adjustment for him. I think it's a great adjustment, an adjustment he ought to make. I think that if legislators serve a realistic community of interest, that they will better represent their constituency than serving the more varied constituency of a larger nature that they now have. I think that—my personal, political prospective is that at the effective level of representation, communities of single interest ought to be represented and it is—ought to be a democratic dialogue at that policy-making level of vested interest communities and that single member districts enhances this possibility and that multi-member districts tend to water down and give you middle-of-the-road kinds of candidates who wish to appeal to everybody and anybody and don't represent, therefore, any of their constituency, in attempting to represent them all, so politically, it's appealing to me in terms of giving us a more realistic balance in the legislature.

[109] BY MR. BRYANT: I have no more questions.

BY MR. PARKER: O.K.

*RE-DIRECT EXAMINATION BY MR. PARKER:*

Q. Let me just ask, let me just proceed a little further on two questions. Let me just pursue, for a moment, the line of questioning that Mr. Bryant was pursuing. You have indicated that there is a relationship in the study and analysis of voter participation and voter turn out between—in regard to the voters concept as to whether his vote will make a difference and we have had other testimony and

other witnesses, PhD's in Political Science who have testified that national studies of 1948 indicate that whether a voter will be able to influence the outcome of an election is most frequently the major factor in his decision as to whether or not to go to the polls. Would you agree with that?

A. Yes, especially where it's difficult for a person to get to the polls, which would be in your rural areas where the person may not have a car and has to go to some effort in order to get there.

Q. I think Mississippi, in the past, indicates, Mississippi history and your testimony, indicates in the past, black people have been denied access to the political process. If the present system of multi-member districts were continued in effect for the 1975 election, would this have any affect [sic], in your view, on political participation by black people in the [110] legislative elections?

A. Yes, I think it would.

Q. What affect [sic] would it have?

A. I think that if this is continued, that black participation will go down. That people, as I talked to them, asked this question of what was the struggle all about in the '60's, what did we gain from that. People are asking questions today that are really questioning whether it was worth it, in the struggle to gain civil rights because they don't see, in their individual lines, the substantial kinds of differences they would like to see, the gap is still there in services and so on and they are becoming disillusioned with victories which don't yield anything of substance. And that's not a scientific study, you know, but in talking to people at the grassroots level. I find people asking these questions. People seeing that going out and voting again and again and again and never electing anybody, it discourages them and they don't want to go out and vote any more. I think there are some places where this problem has already set in, where people have come close numbers of times and failed and they have become quite discouraged and saying out loud in their community meetings, "the white folks are going to run it anyway, no matter what we do, we're going to lose the election, why should be worry."

Q. Now if we had a system of single member district, that, in terms of your optimum vote formula, gave black candi- [111] dates or any candidates favored by black voters

in representing their interest, leaves more opportunity to be successful, what affect [sic], in your view, would this have on the turn out and participation by black voters?

A. I think it would increase the black voter turn out. It would do so for two reasons. One is that it would heighten the chance of winning and two, it would make smaller the area that the candidate has to cover, which I think is quite important and would make the candidate's relationship to the constituent, the potential voter, more direct rather than one to 200,000, it's one to 18,000, and, you know, that, you know—I'd rather try and shake hands with 18,000 people than with 200,000 people. And candidates would concentrate and vie for the black vote, at any rate, in such a way that it would make the general atmosphere of the election heightened and it would increase the turn out, therefore.

Q. Do you have any political aspirations. Do you personally plan to run for . . .

A. There are three things I've said I'm never going to do: write a book, run for office and I can't remember what the third—go, go back to school for any extended period of time, and, no, I do not intend to run for office. You can hold me to that.

BY MR. PARKER: Any further questions?

BY MR. BRYANT: No more questions.

[112] [Deponent's Certificate Omitted]

. . .

[113] [Court Reporter's Certificate Omitted]

. . .

Plaintiffs Exhibit P-17

May 7, 1975

Transcript of Proceedings

United States District Court  
Southern District of Mississippi  
Jackson Division  
February 7, 1975

. . .

[64] BY MR. PARKER:

Plaintiffs call Dr. David Valinsky.

DAVID VALINSKY, called as a witness for and on behalf of the plaintiffs, was sworn and testified as [65] follows:

# DIRECT EXAMINATION

BY MR. PARKER:

Q. Dr. Valinsky, would you state your name and address for the record, please, sir?

A. David Valinsky.

Q. Would you spell your last name, please, sir?

A. V a l i n s k y. 5 Laura Lane, Scarsdale, New York.

Q. Is that your home address or your office address?

A. That's home address.

Q. Would you give us your office address, please?

A. 155 East 24th Street, New York, New York.

Q. What is your present occupation?

A. I am a professor and Chairman of Department of Statistics at the Bernard N. Baruch College of the City University of New York.

Q. Would you spell the name of the college, please?

A. Bernard N. B a r u c h.

Q. How long have you been employed in that capacity?

A. Since 1940 except for the war years.

Q. Hand you a document and ask you if you can identify it, please, sir? I have a copy for members of the Court.

A. This is a vita or resume of my experience.



Q. Does that vita correctly state your educational background, sir?

A. That's right, sir.

Q. Does it state the prior positions that you have held in—

BY JUDGE COLEMAN:

I have heard no objection interposed to introducing this gentleman as an expert if that's what you are offering him for. Why don't you ask him what field he is an expert in and if we read this resume we won't take any more testimony before tomorrow, because you've got a very lengthy, very detailed recitation there that ought to be adequate within itself.

BY MR. PARKER:

Ask that the resume be admitted into evidence as plaintiff's exhibit 16.)

BY JUDGE COLEMAN:

It will be so admitted.

BY MR. PARKER:

Sorry, plaintiff's exhibit 14.

(Above referred to resume admitted in evidence and marked as plaintiff's exhibit 14.)

BY MR. PARKER:

Q. Dr. Valinsky, would you state your experience and background in working with statistics and census [67] material?

A. I have been a statistician for more than 35 years primarily by the emphasis has been in the area of survey sampling, sampling design, and use of census materials. For more than 20 years I have selected carefully scientifically designed samples based upon census data. In addition to that I have applied it in one reapportionment case in Alabama in Simms versus Amos case.

Q. Would you describe your work in the legislative redistricting plan in Alabama?

BY JUDGE COLEMAN:

I must say I just don't think that's going to help us at all about what he did in Alabama. Let's just get down to our Mississippi case, please.

BY MR. PARKER:

Your Honor, we intend to establish him as an expert in the state of redistricting.

BY JUDGE COLEMAN:

As I have just said, I have heard no objection to the proposition that he is an expert, and the Court will accept him as an expert so we may proceed from there.

BY MR. SUMMER:

If the Court please, we certainly, we have made no [68] objection simply because we have heard nothing that would establish him as an expert, and we were simply waiting until they tried to establish him as an expert.

BY JUDGE COLEMAN:

Are you prepared to argue now that this man is not an expert in the field of statistics and census and so forth?

BY MR. SUMMER:

I haven't completed reading his statistical bureau and I insofar as it relates to this type of reapportionment case I have only heard he has had one experience which I don't think establishes an expert at all.

BY JUDGE COLEMAN:

Well, I think with all due fairness to both sides we won't hesitate on that. We will go ahead and admit his testimony as an expert and see what help he has got to give us, if any, but I don't care for him to bolster his testimony about all of his exploits in Alabama. I want him to tell us about Mississippi.

BY MR. PARKER:

Well let me then just offer to the Court, Dr. Valinsky prepared the state legislative reapportionment plan for Alabama, the single member district plan that was accepted—

[69] BY JUDGE COLEMAN:

Didn't he just testify to that?

BY MR. PARKER:

Well, Your Honor, I believe he was about to testify to that.

BY JUDGE COLEMAN:

I thought he said he prepared the plan presented in Amos V.—

BY MR. PARKER:

(Interrupting) Simms versus Amos.

BY JUDGE COLEMAN:

Yes.

BY MR. PARKER:

And was accepted by the Supreme Court.

BY JUDGE COLEMAN:

Well, I don't know about that. The Supreme Court affirmed that case in a memorandum opinion as I recall it.

BY MR. PARKER:

Q. Dr. Valinsky, have I requested you to prepare a single member districting plan for the Mississippi Legislature?

A. You have, sir.

Q. Let me hand you a document and ask you if you can identify it? Copies for the members of the Court.

[70] BY MR. SUMMER:

If the Court please, and so I won't be bothering the Court,—

BY JUDGE COLEMAN:

You are not bothering the Court, but I have been in the Courtroom 35 years and I just don't like to waste time on quibbles of any kind and that's all I'm trying to do here.

BY MR. SUMMER:

I want to enter one continuing objection to this man's testimony in regard to his preparation of a single member plan or any other type plan at this time, and I will shut up.

BY JUDGE COLEMAN:

Well, Mr. Attorney General, it's accepted only conditionally because obviously it's altogether out of order. The Mississippi plan as it presently exist is valid so we will just have to let it come in with that understanding. Okay, Mr. Parker.

BY MR. PARKER:

Q. Can you identify that document, Dr. Valinsky?

A. Yes, sir. This document is a plan of reapportionment for the House of Representatives of Mississippi as prepared by me.

BY MR. PARKER:

[71] Ask that that be admitted as plaintiff's exhibit 15.

BY JUDGE COLEMAN:

It will be conditionally admitted for such use as the Court may need to make of it in the ultimate disposition of this case.

(Above referred to document received in evidence and marked plaintiff's exhibit 15.)

BY MR. PARKER:

Q. Dr. Valinsky, let me hand you another document, copies for members of the Court, and let me ask you if you can identify that document, Dr. Valinsky?

A. This document indicates a reapportionment of the state senate seats in Mississippi which I have prepared.

BY JUDGE COLEMAN:

It would be admitted under the same conditions as the house plan in case it should ultimately need to be considered.

(Above referred to document received in evidence and marked plaintiff's exhibit P-16.)

BY MR. PARKER:

Hand the witness exhibits 15 and 16, please.

Q. Dr. Valinsky, how are these proposed districts for the Mississippi House of Representatives and the [72] Mississippi Senate, how are they defined?

A. What was the last word, sir?

Q. How are the districts defined?

A. These are designed as single member districts, they are designed in terms of census, descriptions of counties, supervisors' districts, enumeration districts and census tracks.

Q. I see on these descriptions the abbreviation S D. Would you describe to the Court what that abbreviation is?

A. Supervising District as indicated in the census or, various census maps and census material.

BY JUDGE COLEMAN:

You're talking about county supervisors—

BY THE WITNESS:

(Interrupting) That's right.

BY JUDGE COLEMAN:

(Continuing) of the five supervisors districts?

BY THE WITNESS:

That's right, Your Honor.

BY JUDGE COLEMAN:

Well, now for example you've got figures down there for



Hinds County. Were you aware when you put those figures there that those beats were no longer in existence, and that the census takers took the census [73] from the wrong areas?

BY THE WITNESS:

That's right, Your Honor. With regard to Hinds County the newer descriptions of the supervisory districts were considered fully in drawing up the plan.

BY JUDGE COLEMAN:

What did you do to determine the validity and legality and the authenticity of the supervisors lines which a census enumerator purported to use?

BY THE WITNESS:

Your Honor, I didn't test the validity, uhh, the assumption is that the Census Bureau usually checks with local officials and once it becomes an official document various documents which I have with me it's considered basically the official description of the area.

BY JUDGE COLEMAN:

Of course if one had relied on that assumption with reference to Hinds County he would have been very gravely misled, wouldn't he?

BY THE WITNESS:

In 1970, sir, I have a, uhh, Your Honor, I have a later document which defines the new enumeration districts based upon the new definition of the super- [74] visor districts. These were used in the preparation of the plan.

BY JUDGE COLEMAN:

To say the least of the matter, you took it as the Census Bureau took it and relied upon the data which they compiled purportedly in the exercise of their official duties?

BY THE WITNESS:

With one exception. The, the district lines that were defined by the Jackson Planning Board was used as the base and related to the census information and enumeration districts, which related to those lines.

BY JUDGE COLEMAN:

Yes.

BY MR. PARKER:

Q. Let me, in your exam, in your examination, in your examination of census materials, Dr. Valinsky, did you find that the census used the pre 1969 Hinds County Districts?

A. That's right, sir.

Q. And what steps did you take to correct that error made by that oversight made by the Bureau of the Census?

A. I requested from your office to obtain from the [75] Jackson Planning Board the latest definition which was used as a basis for the plan.

Q. Of the new supervisor's districts?

A. That's correct, sir.

BY JUDGE COLEMAN:

Now let's see if I understand that correctly. You mean the plan that the Board of Supervisors later adopted and which is now under challenge itself in the Federal Court?

BY THE WITNESS:

That's right, Your Honor.

BY JUDGE COLEMAN:

I think we understand it.

BY MR. PARKER:

Very well.

Q. Now you also on your description have the definition, have the abbreviation E D. Would you describe to the Court what the abbreviation E D means?

A. E D is Enumeration District. These are geographical subdivisions with approximately 1,000 population each. It varies from E D to E D.

Q. And how are these geographical subdivisions defined by the Bureau of the Census?

A. They are prepared by the Bureau of the Census. The boundaries are usually determined with local officials.

[76] Q. And what determines the boundaries of these enumeration districts?

A. They usually follow either natural or topographical or certain geographical boundaries which are well-known roads, highways, county lines.

Q. Do you have maps that reflect boundaries of your proposed single member districts of the House and Senate?

A. I do, sir.

Q. And from whom did you obtain these maps?

A. From the Bureau of the Census.

BY MR. PARKER:

One moment, Your Honor.

Q. Let me hand you, Dr. Valinsky, copies of maps which purport to be senate maps, I'm sorry, census maps, and ask

if you can identify it. Dr. Valinsky, can you identify these maps?

A. I can, sir. Do you want each group to be looked at, sir?

BY JUDGE COLEMAN:

No, sir, just tie one big string around the whole bundle and put a tag on it.

BY MR. PARKER:

Q. Just tell us what they are.

BY JUDGE COLEMAN:

[77] We've got more to do than—

BY THE WITNESS:

(Interrupting) They consist of county maps prepared by the Bureau of the Census. These county maps include the various supervisory districts as well as census tract enumeration district boundaries. In addition to that, a number of place maps, and place maps being city maps, also prepared by the Census Bureau under the previous conditions mentioned are also included.

BY MR. PARKER:

Q. And so you have obtained these maps from the Census Bureau, and what did you do with these maps? What did you draw on them, if anything?

A. I superimposed the selected, the prepared districts, both House of Representatives and for the Senate as indicated the two previous documents.

Q. And in each case did you adhere to the description as contained in plaintiff's exhibits 15 and 16?

A. Entirely correct, sir.

BY MR. PARKER:

Ask that these be admitted as plaintiff's exhibit 17, Your Honor.

BY JUDGE RUSSELL:

I understand that that is maps of 82 counties there?

[78] BY MR. PARKER:

Yes. This is the Valinsky plan for the House and the Senate based on census—

BY JUDGE RUSSELL:

Does the map contain 82 counties I mean, different supervisors beats and all of that?

BY MR. PARKER:

Q. Could you explain that, Dr. Valinsky?

BY JUDGE COLEMAN:

Does this cover the entire 82 counties in the State of Mississippi?

BY THE WITNESS:

This covers all 82 counties, sir.

BY JUDGE COLEMAN:

All right.

BY MR. PARKER:

Q. Is that for the House and for the Senate?

A. Both for the House and for the Senate.

Q. For purposes of visual illustration of your proposed districts have you drawn the outlines of these proposed districts on statewide census maps?

A. I did, sir.

BY MR. PARKER:

Ask that these two maps be handed to the witness, please.

[79] BY JUDGE COLEMAN:

I believe we can read the maps, gentlemen. Just let them be admitted into evidence and we will get back in the room and spread them out on a table and look at them. I have been looking at maps in this case now for nine years.

BY MR. PARKER:

Q. Can you identify those, Dr. Valinsky?

A. Yes, sir. These are summary descriptions of the single member districts prepared for the House of Representatives and the Senate in the State of Mississippi.

BY MR. PARKER:

We have copies of these maps, Your Honor, prepared for the benefit of the Court.

BY JUDGE COLEMAN:

Why don't you put those off to the side there somewhere, Mr. Marshal. We've got about all we can hold up here for the present.

BY JUDGE RUSSELL:

You offered that as plaintiff's exhibit 18?

BY MR. PARKER:

Yes, Your Honor.

(Above referred to document received in evidence and marked plaintiff's exhibit 18.)

[80] BY MR. PARKER:

Q. I gather, Dr. Valinsky, that in drawing these plans you



attempted to equalize the population among the legislative districts for the House and the Senate?

A. That's correct, sir.

Q. What goal did you follow or attempt to achieve in terms of equalizing population?

A. I was requested to maintain three percent deviation and within six percent variance.

Q. Now would you define for the Court, if you would, please, sir, when you say deviation what you mean and when you say variance what you mean?

BY JUDGE COLEMAN:

We have been through that in all of our prior decisions so you don't have to explain that to us.

BY MR. PARKER:

Q. Okay, deviation is the deviation from the norm and variance is the per cent of deviation?

A. That's correct, sir.

Q. How successful were you in achieving your goal?

A. In the House of Representatives reapportionment that we maintained a variance of 5.9. The maximum deviation was 3.9 on for the largest county—

BY MR. PARKER:

(Interrupting) Is that 3.9 or 3.09?

[81] BY THE WITNESS:

3.09 and a minus 2.30 percent for the smallest county, however—

BY MR. PARKER:

Q. (Interrupting) Is that on the House side?

A. That's on the House side.

Q. So that would be a?

A. A 5.39 variance. Another way of looking at the same figure, sir, is that the average deviation for all of the 105 districts was 1.2 percent.

Q. How many districts?

BY JUDGE COLEMAN:

May I interrupt here to get a little information? Who told you to hold it to three percent?

BY THE WITNESS:

The lawyer for plaintiffs, sir, in a letter addressed to me.

BY JUDGE COLEMAN:

You mean Mr. Parker?

BY THE WITNESS:

That's correct, sir.

BY JUDGE COLEMAN:

In doing that have you studied the decisions of the Supreme Court which infer that as much as 15 percent was permissible if it is done for the reasons set [82] out in Mayhan V. Howell? I just wondered what the philosophy for this very narrow three percent margin was?

BY THE WITNESS:

I'm not expert in law. I read parts of some decisions. I am aware of the Mayhan case. The attempt was to consider several major criteria, Your Honor, and this is one of the considerations, and one very, very important consideration was the maintenance of county lines which I feel that we have been quite successful in obtaining.

BY JUDGE COLEMAN:

Does your plan break any county lines?

BY THE WITNESS:

That's correct, Your Honor.

BY JUDGE COLEMAN:

It does?

BY THE WITNESS:

That's correct, Your Honor.

BY JUDGE COLEMAN:

How many?

BY THE WITNESS:

Uhh, I would say in the House of Representatives 40 percent of the county lines are maintained fully. In the Senate reapportionment more than two-thirds of [83] the county lines are restored, the reason why I say two-thirds, Your Honor, is that in three or four cases only one additional enumeration district a break was made in order to maintain the small deviation.

BY JUDGE COLEMAN:

You say that although you broke 60 percent of the county lines you think that was a very successful preservation of county lines?

BY THE WITNESS:

Uhh.

BY JUDGE COLEMAN:

That's what I understood you to say.

BY THE WITNESS:

I would say that in comparison with the accepted plan in Alabama as it was it was an improvement over the Alabama plan.

BY JUDGE COLEMAN:

Is the Alabama plan which you participated in, is it still in effect in Alabama?

BY THE WITNESS:

It has been implemented, Your Honor.

BY JUDGE COLEMAN:

In what respect?

BY THE WITNESS:

[84] Each of the districts have been implemented within the structure and election has been executed based upon the specific plan as submitted.

BY JUDGE COLEMAN:

Well, sir, I understand that about like I would Einstein's theory. I think you better come back and tell me again. Are you saying that your plan is intact in Alabama today, or that it has been modified?

BY THE WITNESS:

From what I understand, Your Honor, the only modification was one enumeration district boundary where they felt that a division in a swamp would be better than the census lines, otherwise it has been intactly implemented.

BY JUDGE COLEMAN:

Was that done by the legislature, this modification, or by the Court?

BY THE WITNESS:

By the Courts. They appointed, I understand, a Federal Magistrate.

BY JUDGE COLEMAN:

Thank you. You may proceed.

BY MR. PARKER:

Q. So on the house side, Dr. Valinsky, the population is equal to a variance of, what was the figure?

[85] A. 5.9 percent.

Q. 5.39?

A. 5.39 percent.

Q. And on the Senate side what are the deviation and the variance, if you would, please, sir?

A. The deviation was 1.73, I believe, I believe that's on the plus side, 1.66 on the minus side, a variance of 3.9 per-

cent with an average deviation over the 52 districts of .68 of 1 percent, sir.

Q. So the average deviation on the Senate side is .68 percent.

A. That's correct, sir.

Q. And what is the average deviation on the House side?

A. 1.2 percent.

Q. Have you calculated the population ratios between the largest and the smallest districts on the House and Senate side?

A. I have, sir. In the House the ratio of the largest district to the smallest district is 1.04 percent.

Q. To what?

A. To 1. With respect to the Senate districts the highest district ratio to the lowest district runs a 1.02 percent to 1 percent.

Q. Is that, are those percentages or is that a ratio?

A. That's a ratio.

[86] Q. Okay. Let me hand the witness, please, plaintiff's exhibit number 16, do you have 16. Let me refer you to Senate District number 18. Would you read the percentage—

A. (Interrupting) What number, sir?

Q. Senate District number 18 on the Senate plan?

A. I have that, sir.

Q. Would you read the percentage of deviation in Senate District number 18?

A. 1.66 percent.

Q. Is that the maximum percentage of deviation on the Senate side, maximum plus?

A. That's correct, sir.

Q. Now let me ask you to refer to Senate District number 52. Would you read the percentage of deviation?

BY JUDGE COLEMAN:

Could I ask him a question there just for information?

BY MR. PARKER:

Sure.

BY JUDGE COLEMAN:

Since you are talking about 18, do you propose to put all of Clay County in 18 and three beats of Oktibbeha?

BY THE WITNESS:

That's correct, sir.



[87] BY JUDGE COLEMAN:

Which, which division of that district has the majority of the population, the voting strength, is it the three beats in Oktibbeha or all of Clay County?

BY THE WITNESS:

I can check it out with my worksheet, sir, Your Honor,—  
BY JUDGE COLEMAN:

If you will just give us a letter on that, if you don't mind, at your first convenience. What I'm thinking about on this business of breaking county lines, and you have broken many of them in an effort to stick to this three percent rule, if you take two beats out of one county and hook it up with five beats in another county and then theoretically you've got everybody participating in the election of representatives, but the truth of the matter is, and we all know it, from common sense and long experience the people over on the big side of the county line will generally keep the representative and the ones left on the other side just might as well not have any at all. I lived in that for years and years and years in a senatorial district composed of two counties where they had a gentleman's agreement that one county would elect one four years and the other [88] county would elect the next four years, and it was just human nature that when my county didn't participate in the election of the Senator we didn't have very much attention during that four years, and I am sure the people in the other county felt the same way when we elected one. Now that bothers me about shattering these county lines and so on. Later on I want to ask you about just how much consideration you gave to these questions of traditional policies and so forth that went into this.

BY THE WITNESS:

Yes, Your Honor.

BY MR. PARKER:

Q. Directing your attention to senate district number 52, Dr. Valinsky, would you give us the percentage of deviation plus or minus for 52?

A. Minus 1.73 percent. That is the smallest size population senate district.

Q. So that's what we would call then the maximum minus?

A. That's correct, sir.

Q. Deviation, so that gives us the variance on the senate side of 3.39, is that correct?

A. That's correct, sir.

Q. Okay. Now, what data sources did you use, Dr. Valinsky, in drawing up this single member statewide [89] redistricting plan?

A. I used a number of sources from the census bureau. The first is a document which is labeled P C 1 A 26 Mississippi. It's entitled "Number of Inhabitants of the State of Mississippi". It is this report that defines the population distribution by counties and by beats and also by principal cities. It also defines areas which are considered highly urbanized, those that are considered metropolitan centers and the remainder.

Q. Is this an official publication of the United States Bureau of the Census?

A. It is, sir.

Q. What other documents have you used in the preparation of your plan?

A. This document is a controlled, a second document which is entitled "The Master Enumeration District List". It is this document that indicates within counties, within supervisory districts and within census tracks the various enumeration districts with respect to population size and number of households.

Q. And are these statistics obtained from the United States Bureau of Census?

A. That's correct, sir.

Q. And they define the population of the E D?

[90] A. They define the population of each E D within the State of Mississippi.

Q. What other data sources, if any, did you use, please, sir?

A. In order to determine the maps for what we call the metropolitan areas, that includes Biloxi, Gulfport, and the Jackson, Mississippi areas, and in addition the Meridian area, there is a document known as Block Statistics which is published by the U. S. Department of Commerce, Bureau of the Census. Each block in those areas, urbanized areas, are defined, for example, the one I have in my hand is for Biloxi, Gulfport, Mississippi, and there are maps that are provided that describe the census tracks enumeration districts in each block. In addition to that, there is a summary of each block

within the census track indicating the size of the population. For example, the first one indicated here is track number one, block 101, there's a total population of 79 persons.

Q. Are there any other, there are, I think you testified there are block maps for Jackson, for Biloxi, Gulfport and for—

A. (Interrupting) And in special cases and for Meridian.

Q. Are these official publications of the United States Bureau of the Census? [91]

A. These are official publications.

Q. Were there any other, was there any other source of population statistics that you used in derivation of your plan?

A. The only additional documents was the description of the revision of the supervisory districts in Hinds County with the census publication which indicated the changes in enumeration districts and the size of the population for those districts to conform to the new, uhh, to the proposed plan.

Q. And what was the source of that data?

A. Also the U. S. Bureau of the Census.

Q. Any source other than the U. S. Bureau of the Census?

A. No, sir.

BY MR. PARKER:

Ask that the documents described by Dr. Valinsky be admitted in evidence as plaintiff's exhibit 19.

BY JUDGE COLEMAN:

Very well.

BY MR. PARKER:

Q. What instructions did I give you, Dr. Valinsky, in drawing up this proposed plan?

A. Your letter stated that I was to prepare districts, equal population districts, single member districts, and as much as possible to preserve and maintain [92] existing and known political boundaries such as county lines and supervisory districts.

Q. If it became necessary to break a county line in order to achieve equality of population in single member districts what was the next largest political subdivision boundary line that you used?

A. Supervisory district.

Q. If it was necessary to break supervisor district lines

in order to achieve equal quality of population in single member districts what boundary line did you use?

A. The census track and enumeration district for the same time I maintain the integrity of cities unless they were larger in size than the ideal or normal or norm for the district, either the House District or the Senate District.

Q. Who established these boundaries of these census tracks and enumeration districts?

A. These are established by a committee of the Bureau of the Census jointly and in conjunction with the representatives, usually political representatives, of localities, the State of Mississippi.

Q. Let me ask you again how successful were you in achieving your goal of maintaining county lines?

A. With respect to the House of Representatives approximately [93] mately 40 percent of the county lines have been preserved. In the Senate 51 counties were preserved out of the 82 with another six or seven having only a very minimum break of additional E D or two E D's.

BY JUDGE COLEMAN:

Are you prepared to tell us how many county lines you would have been able to preserve intact if you had been operating on a 10 percent variation?

BY THE WITNESS:

Not precisely, Your Honor, but it certainly would have preserved, maintained a greater portion, a greater number.

BY JUDGE COLEMAN:

It's quite obvious that you made a very, very exhaustive study of this question. I would like for you to tell the Court whether in your opinion it would be possible to set up districts throughout the State of Mississippi that would stay within, say 20 percent, well I'll put it this way, that would stay within 15 percent variations without disturbing any county boundaries and without separating the people of one county and putting them as a minority over in with another county purely to achieve numerical equality.

BY THE WITNESS:

Where I cannot precisely give you the number it is [94] my considered opinion looking at the data that a 50 percent variation would virtually—

BY JUDGE COLEMAN:

15 percent.



BY THE WITNESS:

15 percent variation will virtually, at least in the Senate, will maintain intact the county line. In the House I would say a very high percentage, extremely high percentage would be maintained with that amount of variation.

BY JUDGE COLEMAN:

Well this very, very, very exhaustive study you have made and this very impressive study, and I compliment you for its impressiveness, of course, we have the problem of the standards upon which you operate, but of course you were operating as you were requested to do which is your business and all that, but I wonder if you would undertake to compile for the Court a plan for as the Court's plan a plan which would preserve county lines intact in the State of Mississippi and still stay within variations of not more than, what was the variation that was permitted in the Mayhan case?

BY MR. PARKER:

That was a legislature plan, not a court ordered plan [95] it was 16 percent.

BY JUDGE COLEMAN:

I understand that, but the legislature might conceivably enact such a plan, and two we are after doing here what the Constitution requires, and not necessarily claiming credit for whether the Court does it or the legislature does it because the Supreme Court in the Myer case says we want the legislatures to do it, but nevertheless how long would it take you, Doctor, do you suppose, to devise such a plan?

BY THE WITNESS:

That can be done within a month. There is one problem, Your Honor. In some of the counties that are extremely large, 50,000, 60,000 population, you would almost immediately exceed the 15 percent. In other words, Your Honor, what I'm saying is this—

BY JUDGE COLEMAN:

In enunciating it sounds to me as you are saying 50 percent, but you are saying 15 percent, fifteen?

BY THE WITNESS:

15 percent, that's right.

BY JUDGE COLEMAN:

15 percent.

BY THE WITNESS:

For example, the norm being 18,000, there are [96]

counties as high as, I'm not including Hinds, for example as high as 57,000 population. That would be approximately 300 percent variation. Now the other approach of course is to break this up into districts so that they comprise totally the plan, I can cite an illustration here that might be useful. In the House plan in number six district, I'm sorry, it is not number six, it is number seven, eight, and nine, were devoted to the counties of DeSoto and Tate, Tate County represented itself in District Number Nine, that's 18,000; however, DeSoto County had approximately 35,000 population, that was broken into two districts—

BY JUDGE COLEMAN:

It probably has 50 now, you know that's a very fast growing area of the state right up against Memphis, Tennessee.

BY THE WITNESS:

That's right, Your Honor.

BY JUDGE COLEMAN:

Of course, you have to go by what 70 said.

BY THE WITNESS:

This is based on 1970 census.

BY JUDGE COLEMAN:

Right.

[97] BY THE WITNESS:

Now using these figures this divides the county into two districts, the total comprised is the county. Now if you're operating on that basis you can maintain the 15 percent without any difficulty. In other words, treating DeSoto as a individual district would already be 100 percent variance, deviation. In the same manner, for example, Hinds County is broken into 12 districts, the total comprised the whole entire county.

BY JUDGE COLEMAN:

Let's see, what would the population be per district in Hinds County?

BY THE WITNESS:

Approximately 18,000, sir. 18,100.

BY JUDGE COLEMAN:

And norm is about 17,000?

BY THE WITNESS:

18,171.

BY MR. PARKER:

Q. Now in instances where both counties are preserved intact, Dr. Valinsky, would there be any necessity to change existing precinct lines?

A. None whatsoever, sir.

Q. How does the maintenance of county lines in your [98] Mississippi plan compare with the maintenance of county lines in the Alabama plan that was accepted by the District Court?

A. Somewhat higher, a larger number of counties, lines have been preserved in both the House plan and the Senate plan for the State of Mississippi.

Q. Would you describe the procedure that you followed in drawing up these districts for the House and the Senate, Dr. Valinsky?

A. To understand the procedure, sir, there are certain criteria which I would like, I think should be stated.

Q. Would you state the criteria first?

A. I believe, Your Honor, you are aware of all these criteria, I'll go through them very, very quickly. There were several used. Primarily our fundamental aim was to use what we call a scientific method or a quantitative mathematical method to develop an impartial or in other words, an automatic plan where I do not define exactly where a district ought to be based upon my own discretion. Seven criteria was used. The whole population districts of course was a important aim, fully important was to maintain political and historical boundaries which I have already indicated, the concept of contiguity or [99] contiguous territory was maintained—

BY MR. PARKER:

(Interrupting) Will you spell that—

BY THE WITNESS:

(Continuing) And enclaves—

BY MR. PARKER:

(Interrupting) Will you spell that for the Court Reporter, please?

A. Contiguity is c o n t i g u i t y.

Q. Would you define that for us, please, sir?

A. It is defined as one land mass, the assumption being that an individual could walk at any point within the district without stepping out of bounds and it's avoidance of enclaves.

Q. How successful were you, how successful were you in constructing districts which were contiguous?

A. 100 percent.

Q. 100 percent?

A. That's correct, sir.

Q. All right, what was your next criteria?

A. The concept of compactness.

Q. Would you define that, please?

A. Compactness is essentially the consolidation of areas that should not spread throughout the state. Perfect or ideal compactness is measured one to one ratio, [100] for example in relationship to a square where each side is equal to each other, a circle would be a compact unit. Any deviation from that indicates a lack of compactness.

Q. To what extent were you able to achieve the goal of compactness?

A. My opinion of this case in the House more than 90 percent of the districts I felt were quite compact, more than 95 percent of the Senate districts were compact. They looked presentable almost like in a square form.

Q. Now in cases in which the districts were not as compact in some other cases what was the reason that the district was not quite as compact as you might have possibly liked it, district—

A. (Interrupting) Very free—

Q. (Continuing) Circle—

A. (Interrupting) Very frequently, sir, it's related to maintaining either a county line or district lines. In other cases it was as a consequence of meeting of criteria of equal district population size. Since the inclusion of a, or exclusion of a specific track or E D might create a very large variance.

Q. Now what was your fifth criteria?

A. The fifth criterion dealt with single member districts. [101] And to what extent were you able to achieve that?

A. A hundred percent, sir.

Q. So you have 122 single member districts for the House and—

A. (Interrupting) 52, sir.

Q. For the Senate?

A. Senate.

Q. And does that include single member districts within Hinds County?

A. Correct, sir.

Q. Harrison County?

A. Correct, sir.

Q. In Jackson County?



A. That's right, sir.

Q. What was your sixth criterion?

A. The sixth was the concept of homogeneity, that's homogeneity, homogeneity with respect to urban and rural. The first step in the operation was to separate the metropolitan areas as defined by the Bureau of the Census from the more rural nonmetropolitan areas and treat it separately. For example, the Hinds County, Jackson, Harrison Counties were treated as a separate subset of the total plan. The final criterion, which I think characterizes the plan, is to set up some type of automatic mechanism [102] that would render the initial centers of each district as being impartial. In that respect I employed the use of random numbers which is a scientific device mechanism that is utilized in polling procedures, it is utilized at the Bureau of the Census on a continuous basis, to make the initial selection of the centers. I mean by that, for example, in the selection of the 122 house districts, 122 numbers were selected that located a specific enumeration district within a, a, uhh, a beat within a county, and these represented the center of the formation of the district, all of that determines not basically through my own discretion. This insures representativeness of all areas of the population, it tends to at least eliminate the possibility of my subjectivity and it makes or renders my action impartial. From that point on, since the centers are selected the attempt then is to use the census divisions, for example, total counties first, the various beats secondly, census tracts, enumeration districts in that order, nor to build up the districts and then denotions of compactness, contiguity, equal size and are fully considered within the framework of the concept of maintenance of county lines. I might indicate, well, that comes within the definition of procedure.

[103] BY MR. PARKER:

Q. Now what was the random sampling technique that you used? What, did you use any tables or data for determining the centers of the 122 centers of your various House districts and the 52 centers of your Senate districts?

A. I did, sir. I employed the use of a table of random numbers which is well-recognized called a Million Random Digits. This is prepared by the Rand Corporation that I think most of us are fairly aware of. These numbers were generated by means of computers and there are millions of

such digits and this serves the basis for finding a number. And what I do with these numbers is to find a location simply by going through the census material, the mass list, the master enumeration district list by using these numbers obtaining the physical spot of the center of a district, and this, and so the center of each of your districts in the House and the Senate plan was determined completely at random.

Q. There was no choice on your part at all?

A. Absolutely not, sir.

Q. Now what procedure then using these criterion, what procedure did you follow in the drawing the districts for the House and the Senate?

[104] A. There were several steps. The first was to achieve the homogeneity of urban and rural. The—

Q. (Interrupting) Would you describe how that physically or practically how you actually did that?

A. The Bureau of the Census will define metropolitan, the standard metropolitan areas, they represent counties or multiple counties represented by a city of at least 50,000 in population, Biloxi, Gulfport and Jackson cities meet that category, so—

BY JUDGE COLEMAN:

You think that urban and rural can be made homogenous?

BY THE WITNESS:

I didn't hear the last of your statement, Your Honor.

BY JUDGE COLEMAN:

I said do you think that urban and rural can really be made homogenous within the political sense or in, or on any sound scientific basis that anybody could put his hand on other than as a mathematical theory?

BY THE WITNESS:

Well, they will not be homogenous, I agree with you, sir. That is the reason why I attempted to separate the two, and in other words consider the urban counties and select the districts there apart from the rural counties.

BY JUDGE COLEMAN:

[105] What you mean then is you did try to give them separate identity?

BY THE WITNESS:

That's correct, Your Honor.

BY MR. PARKER:

Q. You stratified them?

A. The statistical term is known as stratification.

Q. Would you describe how that stratification took place in this plan?

A. It is thoroughly automatic since the counties are defined where you find the larger centers. In addition, the, in any, for example, within Hinds County there are two types of enumeration districts, those that are found wholly within the corporate limits of the city and they are numbered from 1 to 100, beyond the city, in other words, the more rural areas or the non-urban or suburban areas, they are defined as the 100 series.

Q. Are these census tracks?

A. They are all tracted within the, these are enumeration districts within the tracks and are the, that's right, the census tracks are how we define them, and as a consequence we are able to determine those districts that will comprise the urban within the Hinds County and the two which were defined as non-urban [106] counties, non-urban districts, sir, in the House plan.

Q. Once this stratification of urban and rural areas had been completed, what was the second step in the procedure?

A. The second step was to devise a plan very early in the procedure for the preservation of counties. This was not followed in the Alabama plan and I thought this was an improvement. I attempted to group a series of counties together, uhh, pardon me one moment, sir.

BY JUDGE COLEMAN:

I would like to suggest that really this should be, this examination of this witness should be limited to matters of constitutional importance, one man one vote is the constitutional issue, and we go into all of these mathematical details, obviously the witness must know the court doesn't want to hear all that, we are not mathematicians, but I did want to ask you this, sir, before it escaped me. We have problems in Mississippi about so-called racial dilution, diluting the racial vote. Did you take any of that into consideration in compiling these figures?

BY THE WITNESS:

None whatsoever, Your Honor. I was not aware of the distribution.

BY JUDGE COLEMAN:

[107] So you did not, nothing that you have done is calculated to cure racial dilution, if indeed it exist anywhere?

BY THE WITNESS:

Absolutely not, sir.

BY JUDGE COLEMAN:

What do you say to that, counsel?

BY MR. PARKER:

Well let me just ask a couple of questions along those lines.

Q. Did you consider the racial composition of your proposed districts that you have drawn, Dr. Valinsky?

A. Not at all, sir.

Q. So the population book from the Bureau of the Census, the blue book which you used didn't contain any racial statistics at all?

A. No, sir.

Q. Did the med list contain any racial—

A. (Interrupting) No, sir.

Q. In other words, your plan was drawn in a color blind fashion?

A. With one exception. The block, the block listing includes a number of none whites in block, but in no way the orders were to my staff not to in any way to look at those figures and have no meaning at [108] all.

Q. Now did you consider the location of incumbents in drawing your new districts?

A. Not at all, sir.

Q. Now first of all let's hand the witness plaintiff's exhibit number 18, the statewide map, and I would ask you, I would like to ask you, Dr. Valinsky, to describe to us how you numbered these counties.

BY JUDGE COLEMAN:

Isn't that evident from the map?

BY MR. PARKER:

I wanted Dr. Valinsky to describe the procedure that he used in describing the counties in which the districts were based once he has stratified the rural and urban areas.

BY JUDGE COLEMAN:

I'm real sorry, counsel, but I cannot see where what number you give a district has any significance, whether it's 1 or 50 or 80. What constitutional significance does the number of a district have whether it's 1 or 40?

BY MR. PARKER:

Well this was simply the procedure that Dr. Valinsky—



BY JUDGE COLEMAN:

[109] Well I'm going to hold that irrelevant of my own motion, because it's now 4:25 in the afternoon and we need to stick as close as we can to decisive issues in this case and I don't care how Dr. Valinsky numbered them as long as he numbered them.

BY MR. PARKER:

Well then I would like to make an offer of proof, Your Honor, that the counties were numbered in a certain time and fashion and that the districts were grouped in terms of population centers in terms of the norm on the basis of that number.

BY JUDGE COLEMAN:

If you say that is the case the Court will accept it as a fact and we will move on.

BY MR. PARKER:

Q. How does this procedure that you followed in the Mississippi case, Dr. Valinsky, compare with the procedure that you followed in Alabama?

BY JUDGE COLEMAN:

I also hold that irrelevant. Whatever the Alabama Court did has no precedential value for us and no precedential bearing for us in our decision. He has already told us what he did in Mississippi and we will be the Judge of it.

BY MR. PARKER:

[110] Even if it was affirmed by the Supreme Court in that case?

BY JUDGE COLEMAN:

Well the Supreme Court, as I said, affirmed it in a memoranda Opinion and the precedential weight of memorandum Opinions is not very heavy.

BY MR. PARKER:

Well the Second Circuit has decided that only the Supreme Court itself is entitled to overrule a per curiam opinion of that Court.

BY JUDGE COLEMAN:

Well I'm not about to overrule one of them I assure you.

BY MR. PARKER:

Q. So you followed the same procedure generally that you followed in Alabama?

A. There is one additional step I think might very well be—

Q. (Interrupting) Describe it.

A. In order to maintain and preserve as many county lines as possible, the 82 counties were grouped to primarily population centers, for example, DeSoto and Tate receiving its impetus from Memphis were combined together as a unit. Union and Pontotoc with New Albany as center, sub-center of, uhh, with a larger [113] center of Tupelo, and each of these, the interesting feature of this, each of these were multiples of district sizes, multiples of, for example, in DeSoto and Tate the combined population was 54,429 which was very fairly close to the size, normal size for three districts, and this was one step and the object there was to see within these groupings to what extent we could have maintained these county lines as a preliminary step. It also served to indicate that there was a certain amount of cohesiveness of these areas in relationship to your major or sub-population centers, areas of interest.

Q. Now in what way was the procedure that you followed in Hinds County different from the procedure that you followed statewide?

A. In Hinds County, sir, of course I used revised S D lines. There it was pretty well determined that 12 districts would be used. No additional grouping was needed except that in the random selection it became rather apparent that the urban areas would be separated from the non-urban centers, in other words, the environment of Jackson City would pretty much fall within two districts. I am now referring to the House. With respect to the Senate, now the size senatorial districts, that most of the area which is [112] considered suburban or rural would fall into one such district.

Q. So the districts in Hinds County then recognize the rural urban stratification of Hinds County?

A. That's correct, sir.

Q. And gave representation to the rural areas?

A. Right, sir.

Q. Now in Hinds County did you try to maintain the supervisor districts lines to the extent possible?

A. Very close to perfection, and centered that definition of compactness, the possibility of eliminating enclaves and also maintaining equal population districts.

Q. And what procedure did you, did you follow the same procedure for Harrison and Jackson Counties?

A. That is correct, sir.

Q. Now have you attempted after completion of this plan in any way to validate the final results? First of all, let me ask you in terms of population statistics? How have you validated to make sure that you have included all of the population in your House and Senate districts?

A. Well some of the population of the 122 and the 52 senate districts should sum up to the total population of the state, and it does.

[113] Q. Did you check that?

A. That has been verified.

Q. Do you know whether or not it's consistent with Mississippi population and economic growth conditions?

A. Fairly recently I received a document which was rather interesting.

BY JUDGE COLEMAN:

I must say to you, counsel, if I had known we were going to get into all this on a conditional admission I never would have permitted the Doctor to testify. This is just not helping us at all to come to grips with the chief issue which is whether or not the present reapportionment of the legislature is enacted by that legislature, is legal and constitutional. I realize he has no option except but to answer your questions, but let's please sort of stick to the issue before the Court, please, sir.

BY MR. PARKER:

Your Honor, I think the point of the testimony is that it is feasible to draw a plan in Mississippi with a variance of 5.39 for the House and 3.39 for the Senate.

BY JUDGE COLEMAN:

Well there is no doubt that it is if you are willing to fracture state lines, I mean county lines, which [114] is something that has never been done in the history of the state, and as you very correctly remarked at the outset of these proceedings we have had districts within counties, but there has never been an instance in the one hundred and, since 1817, in which county lines were broken for legislative and senatorial districts. Now the Supreme Court of the United States told a three judge District Court in North Dakota you can't foist a policy on North Dakota of requiring them to have multi-member districts when their policy has always been to have single. By analogy I don't think this Court has the authority to foist upon the people of Missis-

issippi senatorial and representative districts fracturing the county lines in violation of the undisputed, unchallenged tradition and policy of the state for over a hundred years, yet the plan which you have had the doctor to fix up here would do just exactly that.

BY MR. PARKER:

Let me, in response to that, Your Honor, let me make one point for the Court's consideration. It seems to me that using counties as a basis for legislative districts in the state policy of countywide voting for the legislature would be unconstitutional and could not be adopted or followed by the court in one situation, [115] and that would be the situation in which countywide voting or at large voting is rooted in racial discrimination.

BY JUDGE COLEMAN:

I know, but the doctor says he hasn't even looked at that at all so he is in no position to help us with that problem. That's why I'm trying to get you to sort of bring this testimony to the point.

BY MR. PARKER:

That evidence is contained in our other, our other documents.

BY JUDGE COLEMAN:

All right.

BY MR. PARKER:

Q. Do you have the report of the Mississippi R & D Center, Dr. Valinsky?

A. I do, sir.

Q. What is the title of that report?

A. Mississippi's Changing Economy, 1973.

Q. And what did you discover as a result of looking at that report?

A. This consist of data prepared by the Bureau of the Census and analyzed by the Mississippi Research and Development Center. There are two maps that are of interest. The first deals with a map of the [116] population centers. This is map number 13 on Page 57 which has a description of the various major and minor population centers, and it seems to conform rather closely to the original groupings indicated.

Q. Which original groupings are those?

A. In the second procedure of grouping the counties with multiples of the size of the ideal district.



Q. So this conforms with the groupings that you made?

A. That's correct, sir. In addition to that, there is a map number 1 on Page 22 which defines a major Mississippi commuting center, centers of 1970. These maps were drawn incidentally after the plan was completed, and it seems again that the groupings that were utilized seems to conform to the major and minor commuting centers so that it does indicate a certain amount of homogeneous economic life.

BY MR. PARKER:

Ask that that report be admitted in evidence as plaintiff's exhibit number 25, please, sir.

BY DEPUTY CLERK:

That will be number 20.

BY MR. PARKER:

Well we have listed the other plan 20, 21 through 24, so this will come at the bottom of the list, number 25. These other exhibits will be in sequence. [117] Then our list will be altered to that extent. This will be 20.

BY JUDGE RUSSELL:

It may be so admitted and marked. (Above referred to document received in evidence and marked Plaintiff's Exhibit 20.)

BY MR. PARKER:

Q. Let me ask you three more questions then, Dr. Valinsky. First of all, did you split any E D's, and if so how did you determine the accuracy of your population in those split E D's?

A. I believe in one case they are split and this is a legitimate Bureau of the Census split. They define their census track in certain enumeration districts in terms of block groups. This is found in the large metropolitan cities and block groups consist of a number of blocks and the populations are defined for them.

Q. So in how many cases then did this occur, sir?

A. One, sir.

Q. And what was the source of your population statistics for the split E D's?

A. This was included in both the master enumeration list as well as the block statistics.

Q. So these came from the census bureau?

[118] A. That's correct, sir.

Q. Now would your plan require a re-registration of voters?

A. I don't believe it would, sir.

Q. How do you know that? What is your basis for that opinion?

A. In checking on the implementation in Alabama there was no re-registration that basically revises a voting list. With regard to the precincts I understand less than 10 percent of all precincts required modification.

Q. Is that in the Alabama plan?

A. In the implementation of that plan.

Q. In your opinion how long would it take election officials of the State of Mississippi to put this plan, the plan that you propose, in place?

A. It would take within a three month period.

BY MR. PARKER:

One moment, Your Honor. No further questions, Your Honor. You may cross-examine.

#### CROSS-EXAMINATION

BY MR. SUMMER:

Q. Doctor, have you ever read *Future Shock*, the book *Future Shock*?

A. Did I ever read it?

Q. Yes, sir.

[119] A. No, sir.

Q. Are you familiar with the book at all?

A. No, sir, I haven't read it.

Q. Well if you were I was just going to comment that you have brought here a plan that fits that book very well. You say it would take three months to put your plan into operation, is that correct, sir?

A. That's correct, sir.

Q. Now what do you mean by that, to locate the boundary lines?

A. Based upon implementation in Alabama, sir, it took a three month period to define the modification to precinct, to make the changes in the voting list, there was a very minimum of new polling places that had to be established, in other words, prepare for an election, the implementation of the plan and plan for an election.

Q. Have you ever read the plan that was adopted by the Mississippi Legislature, Doctor?

A. No, sir.

Q. You know nothing—

A. (Interrupting) I will say this, however. I was aware

of the plan. I spent about two or three minutes when I first came here to simply see what the general thinking of the legislature was in this respect so [120] that I saw that the multi counties were connected and I asked a question with regard to the variance, but beyond that I have not examined or studied the plan.

Q. So you spent every bit of two or three minutes on the Mississippi Legislative—

A. (Interrupting) The reason for that, sir, is not to be greatly influenced in my finding by any other plan in existence.

Q. You were determined not to be influenced by any other plan other than what you had been directed to do?

A. The, uhh, that's right, sir, in view of the fact that in order to obtain a impartial automatic plan this was a procedure that I usually follow.

Q. Now when you say an impartial automatic plan what do you mean by automatic?

A. The random numbers are automatically there and they indicate where the center locations for each of the districts might be.

Q. So when you were determining the centers as you explained to us in the first place that was all determined by a computerized situation where you had taken the numbers from the Rand Corporation, put them in the computers and somehow determined the population center for an individual single-member district in [121] Mississippi, is that correct?

A. Not entirely, sir. The, the, the random numbers were generated by computers but they were published in a book and I used those figures in sequence.

Q. What I'm talking about, Doctor, did you take anything into consideration other than the numbers from the books and records that you have just been talking about?

A. I only considered the population figure, geographical and topographical areas as defined by the Bureau of the Census.

Q. Now you stated at one point during your examination that you had, I believe, taken the, uhh, that the Census Bureau sets up these E D Districts by geographical, historical boundary lines and so forth. Do you see any difference in that, how long have they been doing that?

A. They have been doing it for more than a hundred years, sir.

Q. Do you see any difference in requiring the Census Bureau to change their method of doing that than you do in requiring the State of Mississippi to change its method of picking its representatives by the same exact type of situation, historical boundary lines and so forth?

[122] A. I don't think I'm in a position really to tell the Bureau of the Census to change its methods because they are pretty well accepted in the statistical profession as being fairly scientific.

Q. But you did, you do know that all of these tracks which you have on the House and the Senate plan were taken from the districts, E D Districts, that have been established historically by geographical historical boundary lines, creeks, rivers, cities, towns, and so forth?

A. That's correct, sir.

Q. So the genesis of your entire work was based on a work that came out of this type of establishment?

A. Correct, sir.

Q. All right, sir. Now we have come a long way as you will term it now in Hinds County Number 31 and—

A. (Interrupting) Are we looking at the House of Representatives?

Q. Yes, sir, I believe we are.

A. No, that's the senate seat, sir.

Q. Sir?

A. 31 is the Senate district.

Q. I'm sorry. Which is it in the House? Number 69, I believe, in the House. Now you have set out how many separate districts for the House of Representatives [123] in Hinds County?

A. 12, sir.

Q. 12 separate districts?

A. That's right, sir.

Q. Comprised primarily of what?

A. Primarily of, uhh, well, either, uhh, well, tracks, enumeration districts or comprised supervisory districts.

Q. Could you, let me ask you this, Doctor. How long have you been in Jackson?

A. I have been in Jackson, uhh, four times, sir.

Q. Four times, and during those four times that you have



been to Jackson have you ever been on the ground to take a visual look at what you have done?

A. No, sir.

Q. Have you ever been in any one of the 82 counties to take a visual look at what you have done?

A. Not with respect to these plans, sir.

Q. Do you know that whether or not if you divide Hinds County up into 12 districts from track and E D Districts and supervisor's districts, all combined, have you had anyone to make a survey to determine whether those lines, where those lines would be?

A. They are determined. They are completely delineated in the census maps, every block is indicated.

[124] Q. How would you go about educating the people of Hinds County who have voted consistently at the same voting place for a number of years in re-educating them as to what voting district they lived in, what representative district they lived in?

A. This happened in my own case where the polling places were changed, the districts, we went under redistricting at my home and there were notices that were sent out by the various political parties and by the Board of Elections defining where we are located, where our polling place should be.

Q. Let's talk about your place. When was the last time New York was reapportioned?

A. 1971 or '72.

Q. And who did it?

A. Who did it?

Q. Yes, sir.

A. A group of lawyers that were appointed by the State Legislature.

Q. It was a legislative plan?

A. There has been revisions from time to time because of violations of certain constitutional principles, I understand.

Q. Was it by legislative plan or by court plan?

A. It was legislative plan, but there were changes made [125] in specific areas and districts that were recommended by the Courts.

Q. Are there any multi-member districts there?

A. None, sir, none whatsoever.

Q. Every district in New York is a single member district?

A. That's right, sir.

Q. And how long has that been?

A. As long as I have ever remembered.

Q. So that's a historical—

A. (Interrupting) That's right, sir.

Q. (Continuing) feature of New York State?

A. (No Answer.)

Q. Single member districts?

A. That's correct, sir.

Q. All right, sir. Getting back to Jackson and Hinds County, how long would it take to prepare maps to show where these 12 districts are?

A. They are already prepared, sir. They have been submitted.

Q. Now let's suppose that this plan goes into effect and you have an individual who lives in one of these E D, 222 for instance, and right now he lives in Beat One, Beat Two, Beat Three, or Beat Four or Beat Five, and he knows where he lives and where he votes, or soon will know if they have a new one. How [126] do we educate that fellow as to whether or not he is still liable for bonds, school bonds and things like that that he may have voted on when he was in a supervisor's district or a county district as opposed to one of these E D 22's and track 9501's and so forth?

A. Well I don't have competence with regard to the legislation how it operates here in the State. I would not be able to answer directly.

Q. If you were a legislator, sir, this is the point I am trying to get at here now, if you were a legislator taking into effect that we have outstanding bonds in both schools and many other areas and you were required to, uhh, you set it up in 12 districts and all of a sudden you are no longer responsible for any of that, how do you think that would effect [sic] the state?

A. I don't know whether it should effect this plan at, I don't know whether the plan should effect that at all. My experience in New York school districts for purposes of taxes is quite different from the county, it is quite different from the township, quite different from the unincorporated area in which I live in. They are separate issues.

BY JUDGE COLEMAN:

I want to ask Dr. Valinsky this question. You know [127] the smallest political entity in Mississippi is the voting precinct. Of course each beat is divided into voting precincts and then of course the county has a sum total of so many. I live in a small county which has only sixteen voting precincts in the entire county. Now are your figures and are your maps broken down by voting precincts, for example if you were redistricting Hinds County on a single member district, 12 single member districts, could that be done now by saying precinct 1, 2, 3, 4, what have you, or do your lines so far as you know cut across existing precinct lines?

A. In view of the fact thereof the district represents a large number of people, I have assumed that in most cases, probably 90 percent of the cases, the precincts would be included. There will be some districts, my guess would be more than a speculation, sir, is based upon experience in Alabama where more than not, uhh, less than 10 percent of the district lines cut across precincts. There would be some modification. I believe in the same way, Your Honor, as any revision of the supervisory districts would require in some ways a reconstitution of some of the precincts.

BY JUDGE COLEMAN:

[128] That is the question we have been waiting to see because it is very important, it involves a reregistration of the voters. You see, Mississippi has permanent registration. I registered some nearly 40 years ago to vote in the precinct that I have voted in every since, I have never had to go back to register. Of course the commissions meet and they mark off the names of the people who have died and moved away and of course add the names of the people who have come in and registered. Of course I know that it's traditional and congressional redistricting to evenly divide congressional districts, that's of course a national thing rather than state, but they divide congressional districts by precincts because that's a well-defined thing that the average citizen can grasp, creates a minimum of confusion, and I just wondered if your Hinds County plan was really tied down to existing precinct lines. I guess it wouldn't have done any good if you had because they may have to be changed under whatever is done in Kirksey, but I can very well see how it would be a comparatively easy matter and not very confusing to the public to say all right in repre-

sentative district number 1, precinct 1, 2, 3, 4, 5, 6, 7, just start at the Madison County line up here and go all the way to the Copiah County line [129] and all the way over to the Warren County line and that would be the end of the matter in Hinds County. I suppose maybe it could be done in Harrison. Judge Russell here would have the expertise on Harrison and pretty much so I am sure on Jackson. These are things that have to be considered and as it seems to me when you get down to traditional state policy and things that have been maintained so long, as I read the Supreme Court decisions they are not likely to be overturned, to say the least. Now, in that regard, we of course are faced with the problem of whether or not the Supreme Court has ever told us that we must overturn all of those things. It seems to be that the [word omitted] of the North Dakota Decision is that you Federal Courts don't be going around upsetting existing state policy, and you know in the Virginia case the Fourth Circuit did just that. The District Court had observed all of these traditional policies, the Fourth Circuit said no, the overriding thing is numbers, population, the Supreme Court said oh no, of course that was a legislative reapportionment, but mind you that is what we have before us today primarily, and we are talking to you now about a fallback position in case what has already been done is nevertheless invalid. How long would it take you to, suppose we get [130] the Kirksey case down and suppose it's not appealed and it becomes final, how long do you think it would take you to, and suppose the precincts then are delineated by the Board of Supervisors, they are the ones that have the authority to fix the boundaries of precincts, how long then do you think it would take you to come up with a plan, a single member plan, a single member district plan for Hinds County?

BY THE WITNESS:

Hinds County would take within a month, sir.

BY JUDGE COLEMAN:

But it might be a month?

BY THE WITNESS:

Time could, uhh, you could speed up time, Your Honor, by adding more staff, obviously, sir. In response to your precinct, uhh, the statement on precinct which is quite important, I recognize that, to maintain as much as possible this plan if it were to be accepted could very readily



be superimposed on any precinct line to the extent of modification, does not mean that the plan that you have here cannot be modified in some respect.

BY JUDGE COLEMAN:

Would I now be allowed to ask you just what traditional state policy did you consider in this, or did you just [131] hue to the standard of a 3 percent difference and not more, what was your major variation, 5 percent?

BY THE WITNESS:

5.39 in the House, sir. In the Senate it was 3.39 percent variation.

BY JUDGE COLEMAN:

But you do say as to the Senate there were only a few county lines that were breached?

BY THE WITNESS:

About one-third, Your Honor.

BY JUDGE COLEMAN:

Oh, one-third. Excuse me. Go ahead.

BY MR. SUMMER:

Q. Doctor, I would like to ask you this now, and specifically we will relate this to Hinds County but it could generally apply, be applicable to any 82 counties. Let's suppose that we adopted your plan and had 12 representatives. They would not be representatives of Hinds County, they would be representatives of districts, 31 in the state of Mississippi, would they not?

A. Primarily they do represent people that put them in office, they would represent districts. The assumption of course is that a legislator would always represent a district, would represent a county, and of course above all would represent a state.

[132] Q. Why, if he has his own 12 little one-twelfth of the county district and that's where he lives and that's who elects him, who is he answerable to other than the people in that one little section of the district? Why is he, why would he be considered a county man?

A. I think it depends very much, sir, on my legislator, I don't have competence in that direction, but the assumption is that people who are elected to office have a responsibility not only to their own people but they do represent their state and they do have a responsibility which might transcend their immediate constituency.

Q. But I think we all understood that that is not neces-

sarily, that's a theoretically wonderful situation but that is not necessarily true in practicality, is it?

A. That's correct, sir.

Q. All right, sir. Let's suppose, uhh, you said you had separated Hinds into the urban and the rural and let's suppose that in one of these twelve districts something very vital to Hinds County was required to be built and a bond issued there for such as a huge cattle barn or rodeo barn or anything of that nature, and the taxes were going to be distributed equally among Hinds County. You would have 11 members of the [133] legislature who resided in Hinds County but who represented separate districts that could very well take a stance against any improvement if it was going in that particular district without fear of losing a vote in his district as a general rule, could you not?

A. That's possible, sir. The experience in New York has not been that way. There is usually a coalition of people representing specific counties or specific areas of the state discuss mutual problems.

Q. If we should put a witness on this stand this afternoon to testify that that generally would be true in Hinds County, Mississippi, you would not disagree with him, would you?

BY MR. PARKER:

I object, it's hypothetical.

BY JUDGE COLEMAN:

I think so. I think he is right about it.

BY MR. SUMMER:

All right, sir.

Q. So, what is so good about a single member district plan?

A. I am not going to speak about the constitutionality, this is not my expertise, the assumption one way to obtain, the only way I really know how to obtain equal population districts would be through this procedure.

[134] Q. Well, I'm not addressing my questions to you from a constitutionality standpoint, we are going directly into the question of single member districts and how they would effect this state as it has operated historically for a long period of time, and I'm just trying to get you to tell me how a county like Hinds who is, which has the seat of government and which must have a progressive legislature if it is cut up in 12 pieces and 5 other pieces wherein and how could you ever achieve any degree of unanimity among

those memberships, if as you have said you already have a great variance among the people.

BY JUDGE COLEMAN:

Mr. Attorney General, I think I'll have to draw the same rein on you that I did on counsel for the opposition awhile ago. I believe we are getting outside of the relevant and material part of this gentleman's testimony.

BY MR. SUMMER:

All right, sir. Thank you, Your Honor.

Q. Now, and I'll end that line of questioning at that point, and I will ask you, sir, what figures did you use when you drew up a plan for Forest County? Did you use the figures for the old, under the old supervisor's district or the new supervisor's district?

[135] A. In 1970 statement by the Census Bureau as to what the districts were. Only in one state, uhh, in one county did we use, revise the proposed at the time.

Q. What was that?

A. Hinds.

Q. Hinds County?

A. That's right.

Q. And you made a guess at that?

A. No, sir. I had a accurate description of what the proposed lines are, district lines are, as prepared by the Jackson Planning Board and this is delineated block by block by the Bureau of the Census to conform with those lines.

Q. Well then, sir, I will ask you one more question and I think that will bring my thing to a close, and I hope this is not too [sic] duplicate a question that the Court asked you just a minute ago. What features of the State of Mississippi historically, statistically, boundary wise or otherwise that form or make a part of the State of Mississippi that has existed in the past have you used as an input to your plan?

A. The input, sir, one, the maintenance as much as possible of county lines which are historic. The boundaries of the enumeration districts have been historical here defined for many, many years. This is [136] also so with the census track so as much as possible I did maintain to recognize geographical areas.

Q. Even though you had the good intention, you had the intention to use that if possible, the fact still remains that

you have broken 60 county, 60 percent of the county lines, have you not?

A. In the House plan, that's right, sir.

Q. Yes, sir. Now other than that one criteria which you obviously did not carry through in the preparation of your plan was there any other criteria along that line that you used other than figures and—

A. (Interrupting) There is a—

Q. (Continuing) criteria that you—

A. (Interrupting) there was an attempted avoidance of my fostering any opinions I might have on Mississippi and to do that it is very important to develop this automatic kind of plan using the building blocks which have been defined jointly by the Bureau of the Census and the State of Mississippi and the various localities, and so that's population distribution that I used. The assumption of the scientific plan is which is well recognized in the statistical profession and by the Census Bureau is that such a procedure will insure adequate representativeness of all the populations or areas and the like.

[137] Q. In other words, if we were all products of automation you did it just like as if they were 2,212,000 robots in the State of Mississippi, you separated those robots into equal districts as if they were people instead of robots but—

A. (Interrupting) I recognize population centers, for example, as I indicated in my grouping. I did recognize that.

Q. (Continuing) but you did not take into consideration any factors that counties may have in common with each other?

A. Urban and rural determination, that was included also, sir.

Q. Just the fact that one was outside the city and one was inside the city though, is that correct?

A. That's an important consideration, that's right, sir.

Q. All right, for instance Oktibbeha and what are the counties that you put together up there, Oktibbeha, Clay, Carroll and—

BY JUDGE COLEMAN:

Oktibbeha and Clay are on one of them that I saw.

BY MR. SUMMER:

Q. Did you take into consideration any features that those counties may have in common, anything that they may—

A. (Interrupting) No, sir.



[138] Q. Did you take that into consideration in regard to any other than as you said the rural and the urban?

A. No, sir.

BY MR. SUMMER:

Thank you, sir.

BY JUDGE COLEMAN:

Anything on redirect?

BY MR. SUMMER:

If the Court will indulge me just one minute.

BY JUDGE COLEMAN:

All right.

BY MR. SUMMER:

That's all.

BY JUDGE COLEMAN:

All right.

#### REDIRECT EXAMINATION

BY MR. PARKER:

Q. Dr. Valinsky, you were asked about the possibility of drawing legislative districts equal in population based on voting precincts. Does the Bureau of the Census outside the standard metropolitan statistical areas publish any population data on the basis of voting precincts?

A. No, it does not, sir.

Q. So if you were basing, would it be feasible then to [139] base legislative district lines on the basis of voting precincts, is there any accurate population data available outside of the S M A S A's?

A. No, sir. What I think we responded to was whether you can superimpose this plan, indicate what the nature of the modifications would have to be. Now in the areas where there are block statistics adjustments can be made precisely as blocks are defined, uhh, as long as enumeration districts conform to, uhh, as long as voting precincts might conform to census tracks which it does in many cases. You then are able to make, relate the population figures to that group.

Q. Would you tell the Court whether or not you believe that this plan provides the greatest equality of population among the districts using the criteria which you stated?

A. It does, sir.

BY MR. PARKER:

No further questions, Your Honor.

BY JUDGE COLEMAN:

Dr. Valinsky, I must say to you in all candor that I have a great deal of reservations about the standards upon which you operate, but you have certainly done a mammoth statistical job here and we appreciate your testimony and we are glad to have you in Mississippi, [140] and you are now excused.

BY THE WITNESS:

Thank you very much, Your Honor.

BY MR. SUMMER:

Court please, may I ask him just one question?

BY JUDGE COLEMAN:

Yes, sure.

#### RECROSS EXAMINATION

BY MR. SUMMER:

Q. And, Doctor, to take nothing away from the Court's response there I just wanted to ask you this. In the preparation of your plan everything you used in the preparation of that plan was based on facts and figures that were composed or gathered by someone else, books that were published by someone else, information that was prepared by someone else. Did you validate the source of that information prior to—

A. (Interrupting) The Bureau of the Census—

BY MR. PARKER:

(Interrupting) I object, Your Honor, because I think the Court can take judicial notice that the census data is most reliable and I think it's irrelevant for the Attorney General to inquire—

BY JUDGE COLEMAN:

[141] Well I'll say to both sides that we will weigh it for what it's worth based on all those considerations. We know where he got it of course, and there is one further question, I don't want to unduly prolong this, it's now five minutes after five, but you say the Census Bureau does not compile population statistics by precincts. How do you see in the Congressional Directory all of these congressional districts which would have to be set up on a population basis divided on the basis of precincts, and nearly every large city in the country for example that has more than one congressman is divided by precincts.

BY THE WITNESS:

This is not uniform, Your Honor. There are a number

of states and when I looked at these figures about three years ago there were about 18 or 19 states that did break down precinct figures in terms of registration by precincts, but this is not uniform throughout the country, sir.

BY JUDGE COLEMAN:

Thank you very much and you are excused.

(Witness excused.)

[Exhibits Omitted]

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PLAINTIFF'S EXHIBIT P-19

May 7, 1975



## Mississippi House of Representatives

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
1	Tishomingo County: All Alcorn County: SD2: ED1,3,4	18,375	+1.12%
2	Alcorn County: SD2: ED2 SD1: ED13,14 Corinth ED5-12 SD4: Corinth ED10-23 ED19,24,26,27	18,006	-.90%
3	Prentiss County: SD1 SD3 SD4 SD5	18,113	-.31%
4	Prentiss County: SD2 Alcorn County SD1: ED15 SD3 SD4: ED25 SD5 Tippah County: SD1 SD2: ED14 Ripley: ED8-10 SD4 SD5	18,437	+1.46%
5	Tippah County: SD2: ED11-13 SD3 Benton County: All Marshall County: SD2 SD5	18,521	+1.92%
6	Marshall County: SD1 SD3 SD4	18,184	+1.07%
7	DeSoto County SD1: Olive Branch: ED1A-1C ED2,3 SD2	18,105	-.56%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
8	DeSoto County: SD1: All less ED1-3 SD3 SD1 SD5	17,780	-2.15%
9	Tate County: All	18,544	+2.05%
10	Tunica County: All Coahoma County: SD1 SD2: ED10 SD3	18,482	+1.71%
11	Coahoma County: SD2: ED9,11,12 SD4: Clarksdale: ED19-31,40 SD5	18,116	-.50%
12	Coahoma County: SD4: Clarksdale: ED16-18,32-38 ED39,41-46 Tallahatchie County: SD5: ED11,13,14	18,253	+1.45%
13	Quitman County: All Panola County: SD2: ED6,8,9	18,194	+1.12%
14	Panola County: SD1 SD2: ED7 SD3: ED30,31 SD5	18,061	-.60%
15	Panola County: SD3: ED24-29 SD4 Yalobusha County: All	18,377	+1.15%
16	Lafayette County: Oxford: All SD1: ED5 SD2: ED2,3 SD3: ED9,9B,10,11	18,506	+1.87%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
17	Lafayette County: SD1: ED6, 7 SD4: ED15, 16, 16B, 17 SD5: ED21, 22 Calhoun County: SD1 SD2 SD3 SD4: A11 less ED21 SD5: A11 less ED16	18,538	+2.02%
18	Chickasaw County: A11 Calhoun County: SD4: ED21 SD5: ED16	18,565	+2.17%
19	Pontotoc County: A11 Union County: SD3: ED18	18,230	+1.32%
20	Union County: A11 Less SD3: ED18	18,229	+1.32%
21	Itawamba County: A11 Lee County SD3: ED26	18,424	+1.39%
22	Lee County: SD1 SD2 SD3: ED27-29 Tupelo: ED10-16	18,508	+1.85%
23	Lee County: SD3: Tupelo: ED17-25 SD4: Tupelo: ED32-35 Verona: ED31, 31B Remainder: ED37, 38	18,423	+1.39%
24	Lee County: SD4: ED30, 36 SD5 Monroe County: SD3: ED26 SD4: ED33-38 SD5	18,083	-0.48%
25	Monroe County: SD1: Amory: ED2-8 Remainder: ED11, 12 SD2: ED19, 20 SD4: Aberdeen: ED27-32	17,802	-2.03%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
26	Monroe County: SD1: ED1, 9, 10 SD2: ED21 SD3: A11 less ED26 Lowndes County: SD1 SD2: ED27-29 Clay County: SD1: ED28	18,042	-1.71%
27	Lowndes County: SD2: Columbus: A11 less ED17, 18, 20	17,950	-1.22%
28	Lowndes County: SD2: Columbus: ED17, 18, 20 ED30, 31, 32 SD3 SD5 Oktibbeha County: SD2: ED2	18,517	+1.90%
29	Tallahatchie County: SD1 SD2 SD3 SD4 SD5: ED9, 10, 12, 15, 16 Grenada County: SD5	18,481	+1.71%
30	Grenada County: SD1 SD2 SD3 SD4	18,161	-0.06%
31	Bolivar County: SD1 SD2: A11 less ED22 SD3: ED1, 2 Shelby: ED3-5 ED6, 8, 9, 11, 12	18,267	+1.53%
32	Bolivar County: SD2: ED22 SD4: ED33 Cleveland: ED34-51 Merigold: ED35, 35B ED53-56	18,499	+1.81%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
33	Bolivar County: SD3: ED7,10,13 SD4: ED34,52,57 Sunflower County: SD5	18,007	-.90%
34	Bolivar County: SD5: ED58 Shaw: ED59-61 ED62-64 Sunflower County: SD2: ED25,28,29 SD4 Leflore County: SD1 SD2 SD3: ED35	17,918	-1.39%
35	Sunflower County: SD1 SD2: Moorhead: ED26-27 ED30,31 SD3	18,329	+1.88%
36	Washington County: SD3: Greenville: ED12,22-29, ED32,33,35-38 Greenville North: ED49-50 Remainder: ED51,53-56,9900	18,091	-.44%
37	Washington County: SD3: Greenville: ED13-21 ED30,31,34 ED43-46	17,999	-.95%
38	Leflore County: SD3: Greenwood: ED12-30,34	17,893	-1.53%
39	Leflore County: SD3: Greenwood: ED11,31-33 Remainder: ED36-39 SD4 SD5	18,044	-.70%
40	Bolivar County: SD5: ED65-67 Washington County: SD: All less ED5,10 SD5: All less ED66,72	17,894	-1.52%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
41	Washington County: SD1 SD2 SD3: Greenville: ED39-42,47,48 Remainder: ED52,57-62 SD4: ED5,10 SD5: ED66,72	18,207	+1.20%
42	Attala County: All Less SD4: ED9,10	17,982	-1.01%
43	Montgomery County: All Carroll County: SD1 SD2 SD4	17,948	-1.23%
44	Carroll County: SD3 SD5 Attala County: SD4: ED9,10 Holmes County: SD1: All less ED13-14 SD2	17,843	-1.81%
45	Choctaw County: All Webster County: All	18,487	+1.74%
46	Clay County: All Less SD1: ED28	18,453	+1.55%
47	Oktibbeha County: SD1: Starkville: ED4-12 ED13,15,16 SD2: ED1 SD3: ED18	18,401	+1.27%
48	Winston County: All	18,406	+1.22%
49	Oktibbeha County: SD1: ED14 SD2: ED3,38 SD3: All less ED15 SD4 SD5 Noxubee County SD1 SD3: ED9 SD5 Leflore County SD4	17,922	-1.57%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
50	Kemper County: All Noxubee County: SD2 SD3: ED4-8 SD4	18,326	+1.85%
51	Madison County: SD5: ED2 Holmes County: SD1: ED13, 14 SD3 SD4 SD5 Yazoo County: SD1: ED25, 28 SD2 SD4: ED2-4	17,945	-1.24%
52	Humphreys County: All Yazoo County: SD1: ED24, 26 SD3: ED19 SD5	17,754	-2.29%
53	Yazoo County: SD1: ED27, 29 SD3: All less ED19 SD4: ED1, 5	17,985	-1.02%
54	Sharkey County: All Issaquena County: All Warren County: SD1: ED4, 6-10, 9900	17,978	-1.06%
55	Warren County: Vicksburg: SD1: ED1-2 Vicksburg: SD2: ED11-20 Vicksburg: SD3: ED21-29 Vicksburg: SD4: ED30, 31, 33	17,885	-1.57%
56	Warren County: SD1: ED3, 5, 5B SD4: Vicksburg: ED32, 34-37 Remainder: ED38 SD5: All less ED47, 49	17,992	-1.99%
57	Leake County: All Madison County: SD4: ED5	18,220	+1.27%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
58	Madison County: SD1: All less ED20 SD4: ED4 SD5: All less ED2	17,836	-1.84%
59	Madison County: SD1: ED20 SD2 SD3 Rankin County: SD3 SD4 SD5: All less ED33	18,062	-1.60%
60	Rankin County: SD2: Flowood: ED7, 7B Jackson: ED6 Pearl: ED8, 9, 9B, 11, 11B, 11C, 12, 13 Remainder: Tract 201: ED15 Tract 202: ED16 Tract 203: ED10, 17, 18 Tract 204: ED24, 24B, 25 Tract 206: ED14, 20, 21	18,171	-1.39%
61	Rankin County: SD1 SD2: Brandon: Tract 208: ED4, 5, 5B Tract 205: ED23 Tract 207: ED19 Tract 208: ED22A, 22B, 22C SD5: Tract 210: ED33	17,989	-1.00%
62	Scott County: All Less: SD5	18,146	-1.14%
63	Neshoba County: All Less: SD4: ED17, 19-22	18,283	+1.62%
64	Newton County: SD1 SD3 SD4 Scott County: SD5 Neshoba County: SD4: ED17, 19-22	18,553	+2.10%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
65	Lauderdale County: Meridian: SD1: Tract 9501.01 ED20-21 Tract 9501.02 ED23-26 SD2: Tract 9501.02 ED38, 38B Tract 9501.03 ED39-41 SD4: Tract 9501.03 ED52, 54, 57 Tract 9501.02 ED52, 63 Remainder SD3: ED50, 51 SD4: ED65	18,279	+ .59%
66	Lauderdale County: SD1: ED52-57 SD2: ED11-15B, 15-19 SD3: ED46-49 Newton County: SD2 SD5	18,269	+ .54%
67	Lauderdale County: Meridian: SD1: Tract 9501.01 ED22 Tract 9501.02 ED27-29 Tract 9501.04 ED30-31 SD2: Tract 9501.01 ED1-6 Tract 9501.04 ED7-10 SD3: Tract 9501.03 ED42 Tract 9501.04 ED43-45 SD4: Tract 9501.03 ED53, 55 SD5: Tract 9501.04 ED74	18,380	+1.15%
68	Lauderdale County: Meridian: SD4: Tract 9501.03 ED56 Tract 9501.04 ED58-61 SD5: Tract 9501.04 ED70-75, 75, 76 Tract 9501.01 ED77-79 Remainder SD2: ED14 SD4: ED64, 66-69 SD5: ED80-84	18,331	+ .88%
69	Hinds County: SD1: Jackson Tract 1: ED1, 2, 2B, 5(A11) Tract 2: ED4, 5 Tract 3: ED7, 8(A11) Tract 4: ED9 Tract 14: ED13(Black 105) SD1: Remainder Tract 101: ED75B, 76, 77 Tract 102: ED78 SD2: Tract 101: ED75L, 75RL	17,919	-1.30%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
70	Hinds County: SD1: Tract 102: ED79-86 Tract 105: ED89, 90, 93L Tract 106: ED91L SD2: Tract 103: ED87, 88 Tract 105: Bolton: ED91 Tract 105: ED90L, 90L, 93 Tract 106: ED94, 95, 96 Tract 106: Edwards: ED92 Tract 113: ED98 SD3: Tract 106: ED209 Tract 113: ED202 SD4: Tract 106: ED95M, 96L Tract 107: ED97	17,902	-1.48%
71	Hinds County: SD1: Jackson Tract 4: ED10, 11, 12 Tract 5: ED13, 14, 15, 16, 17, 18(A11) Tract 6: ED20 Tract 12: ED35, 37 Tract 13: ED39, 40 SD2: Jackson Tract 12: ED36	17,955	-1.19%
72	Hinds County: SD1: Jackson Tract 6: ED19, 21 Tract 8: ED23 Tract 9: ED26, 27 SD2: Jackson Tract 7: ED22, 119, 120L Tract 8: ED23L, 24, 25 Tract 9: ED27L Tract 10: ED28 SD2: Remainder Tract 103: ED143	17,897	-1.51%
73	Hinds County: SD2: Jackson Tract 2: ED41, 61 Tract 10: ED29, 30 Tract 11: ED31L, 33, 34 Tract 12: ED37L Tract 13: ED38, 39L, 40L, 41, 42 Tract 14: ED43L, 43B, 44 Tract 15: ED46-49 Tract 16: ED50L Tract 29: ED45	18,052	-.65%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
74	Hinds County: SD4: Jackson Tract 19: ED63,64,65,66(A11) Tract 20: ED69,70(A11) Tract 21: ED71,72,112,113,114,115 Tract 22: ED73,74,116,117,118 Tract 24: ED124,125 Tract 25: ED68,108,109,110	17,800	-2.04%
75	Hinds County SD2: Jackson Tract 7: ED121 SD2: Remainder Tract 103: ED146L SD4: Clinton (A11) Tract 103: ED135,135B,135C,136 Tract 104: ED137-141 SD4: Jackson Tract 7: ED120 SD4: Remainder Tract 103: ED144,146,147 Tract 104: ED148 Tract 108: ED154 Tract 109: ED155-158	17,972	-1.10%
76	Hinds County: SD3: Tract 107: ED151L,199 Tract 108: ED153L,193M Tract 111: ED159,190M,191L Tract 112: ED152,195L Tract 113: ED197,198,203,204 SD4: Tract 105: ED149,93M Tract 106: ED150 Tract 107: ED142,151,199M Tract 109: ED153,193L Tract 110: ED159-161 Tract 111: ED190L SD5: Tract 107: ED194,199L Tract 111: ED190,191 Tract 112: ED186,195,196,201 Tract 113: ED202L,204L	17,801	-2.04%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
77	Hinds County: SD3: Jackson Tract 24: ED124L,126,127 Tract 33: ED128,129,175,176,177(A11) Tract 35: ED131L Tract 36: ED178,179(A11) SD3: Remainder Tract 109: ED156L,158L Tract 110: ED159L SD4: Jackson Tract 23: ED122,123	18,024	-0.81%
78	Hinds County: SD3: Jackson Tract 24: ED125L Tract 25: ED108L,109L,111 Tract 26: ED105,106,107,171(A11) Tract 27: ED67N,100M,101,102 Tract 31: ED132,133,172(A11) Tract 32: ED130,131(A11) Tract 34: ED134,134B	17,844	-1.80%
79	Hinds County: SD5: Jackson Tract 11: ED31M,32, Tract 15: ED165 Tract 16: ED50M,51,52,53,54,166,167 Tract 17: ED59,60,61,62(A11) Tract 18: ED56,57,58(A11) Tract 27: ED67L,100L,169 Tract 28: ED55,168 Tract 29: ED99,163,164,164B Tract 30: ED103,104 ED170A Blks 201-205	17,912	-1.45%
80	Hinds County: SD3: Jackson Tract 34: ED173BL SD3: Tract 111: ED188 SD4: Tract 110: ED162 SD5: Jackson Tract 30: ED170A (excluding Blocks 201-205) ED170B Tract 34: ED173,173B,174 Tract 35: ED180,181 Tract 37: ED184,185 Tract 38: ED182,183 SD5: Remainder Tract 110: ED192A-C Tract 111: ED187	17,895	-1.52%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
81	Lincoln County: SD1 SD2: ED1,2 SD3: ED27 Covich County: SD2: ED26	17,955	-1.19%
82	Lincoln County: SD2: ED3 SD3: ED26,28 SD4 SD5 Covich County: SD3: ED14 Franklin County: All	18,224	+1.29%
83	Jefferson County: All Adams County: SD4: ED14-16 SD5: ED19-20	17,792	-2.09%
84	Warren County: SD5: ED47,49 Clairborne County: All Covich County: SD1: ED15,22 SD4 SD5: ED9,10	17,912	-1.43%
85	Covich County: SD1: All less ED15,22 SD2: All less ED26 SD3: ED13 SD5: ED1-8	17,753	-2.30%
86	Smith County: All Jasper County SD1 SD2: ED1 SD3	17,929	-1.53%
87	Jasper County: SD2: ED2 SD4 SD5 Jones County: SD2: All less ED48A,48B,48C	17,998	-.95%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
88	Clarke County: All Wayne County: SD3: ED2 SD4: ED3 Jones County: SD3: ED3	17,983	-1.03%
89	Jones County: SD4 SD5 Wayne County: SD4: ED4,5 SD5 Greene County: SD3: ED3	18,038	-.73%
90	Greene County: All Less SD3: ED3 Wayne County: SD1 SD2 SD3: ED1	18,125	-.25%
91	Jones County: SD1: Laurel: ED9-13 ED15-17 ED20-22 SD1: Remainder: ED38,39 SD3: All less ED3	17,976	-1.07%
92	Jones County: SD1: Laurel: ED14,18-19,23-37B SD1: Remainder: ED40,41 SD2: ED48A,48B,48C	18,107	-.35%
93	Simpson County: All Less SD2: ED12,13	18,278	+1.59%
94	Simpson County: SD2: ED12,13 Covington County: All Jefferson Davis County: SD3	18,451	+1.54%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
95	Jefferson Davis County: SD1 SD2 SD4 SD5 Lawrence County: All Less SD1: ED9 Less SD3	18,362	+1.05%
96	Lamar County: SD1: ED11 SD3: ED12 SD5: ED3,4 Marion County: SD1 SD2 SD5: All less ED22	18,181	+0.06%
97	Marion County SD3 SD4 SD5: ED22 Walthall County: SD2: ED8,9 SD3: ED14,15 SD4 SD5 Lawrence County: SD1: ED9 SD3	18,090	-.45%
98	Walthall County: SD1 SD2: ED6,7,10 SD3: ED13 Pike County: SD1 SD2: Magnolia: ED22-24 Remainder: ED28 SD3 SD4: Summit: ED3,4 Remainder: ED15 SD5	18,523	+1.94%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
99	Pike County SD2: McComb: ED18-19 McComb South: ED20-21 Remainder: ED25-27 SD4: McComb: ED5-14 Remainder: ED16-17	18,363	+1.06%
100	Adams County: SD1: Natchez: ED27-37 SD4: ED1-13	17,858	-1.72%
101	Adams County: SD1: Natchez: ED26,38 Remainder: ED39-41 SD2 SD3 SD5: ED17,18,21 Wilkinson County: SD1: All less ED11 SD2 SD4 SD5: ED2,3	17,892	-1.54%
102	Wilkinson County: SD1: ED11 SD3 SD5: ED1 Amite County: All	17,908	-1.45%
103	Lamar County: SD4 SD5: ED1,2 Forrest County: Hattiesburg: SD1: ED15A,8 ED24-27 SD2: ED7B,8	18,207	+0.20%
104	Forrest County: Hattiesburg: SD1: ED9-14 ED16-23 SD5: ED32,34,35	17,994	-.97%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
105	Forrest County: SD1: ED28 SD2: Petal: ED1-4 SD3: Petal: ED39 Hattiesburg: ED29-31 ED33 ED36-38- Hattiesburg South: ED40-42 Remainder: ED45	17,921	-1.58%
106	Forrest County: SD2: ED5-7A SD3: ED43,44 SD4 SD5 Perry County: All	18,098	-2.40%
107	Lamar County: SD1: All less ED11 SD2 SD3: ED13 Stone County: SD1: ED10 SD2 SD3: ED8 Pearl River County: SD1 SD2 SD3 SD5: ED15,16	18,202	+1.17%
108	Stone County: SD1: ED9 SD3: ED6,7 SD4 SD5 George County: All	18,210	+1.21%
109	Pearl River County: SD4: All less ED35 SD5: All less ED15,16	18,068	-1.57%
110	Pearl River County: SD4: ED35 Hancock County: All	18,073	-1.54%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
111	Harrison County: SD3: Tract 30: ED58,87A Tract 31: ED50,85 Tract 35: ED78 SD4: Tract 33: ED58-60 SD5: Tract 34: ED34 Jackson County: SD1 SD5:	18,554	+2.11%
112	Harrison County: SD3: Pass Christian: ED69-73 Long Beach: ED63-68 Remainder: Tract 25: ED62 Tract 26: ED94 Tract 27: ED90-93 Tract 29: ED89 Tract 30: ED74-77,86A,87B,88 Tract 31: ED79,81-84 SD4: Gulfport: Tract 22: ED52,53 Tract 25: ED44,44B Remainder: Tract 31: ED61A Tract 2: ED61B	18,589	+2.30%
113	Harrison County: SD2: West Gulfport: ED121-124 Gulfport: Tract 16: ED96-99 Tract 17: ED111 Tract 18: ED100-102 Tract 19: ED107 Tract 32: ED95 Remainder: Tract 18: ED129 SD4: Gulfport: Tract 24: ED40 Tract 25: ED40B,41-42 West Gulfport: ED55-57 SD5: Gulfport: Tract 16: ED29 Remainder: Tract 15: ED38A,58B Tract 16: ED39	18,535	+2.00%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
114	Harrison County: Gulfport: SD2: Tract 14: ED117-119 Tract 17: ED110,112-113 Tract 19: ED103,109 Tract 20: ED103-106 Tract 21: ED120 SD4: Tract 14: ED51,9900 Tract 21: ED50 Tract 22: ED51 Tract 23: ED46-49 Tract 26: ED45 SD5: Tract 17: ED30	18,555	+2.11%
115	Harrison County: SD2: Gulfport: Tract 14: ED116,116B Tract 15: ED115 Tract 17: ED114 Remainder: ED128 SD5: Gulfport: Tract 14: ED32 Tract 15: ED31 Biloxi: Tract 10: ED12 Tract 11: ED13-16 Tract 12: ED17-19 Tract 13: ED21-24 Remainder: ED36B	18,519	+1.92%
116	Harrison County: SD5: Biloxi Tract 6: ED25-28 Tract 8: ED1-3 Tract 9: ED4-5C Tract 10: ED6-11 Tract 13: ED20	18,580	+2.25%
117	Harrison County: SD1: Biloxi ED130-160	18,733	+3.09%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
118	Harrison County: SD1: D'Iberville: Tract 33: ED161-165 Remainder: Tract 33: ED167-171 Tract 34: ED166 SD2: Tract 32: ED125-127B SD5: D'Iberville: Tract 33: ED33 Remainder: ED35,36A,37 Jackson County: SD4: D'Iberville: Tract 95.01: ED14-16B Remainder: Tract 95.01: ED29,30	18,564	+2.17%
119	Jackson County: SD4: Ocean Springs: ED9-13G Remainder: ED17-28	18,532	+1.99%
120	Jackson County: SD2: Pascagoula: ED45 Moss Point ED39-44 SD3: Pascagoula: ED51-57,63-67,9900 SD4: Gautier: ED8	18,512	+1.88%
121	Jackson County: SD3: Pascagoula: ED48-50,58-62,68-72	18,523	+1.94%
122	Jackson County: SD2: Escatawpa: ED31,31B Moss Point: ED32-38 Remainder: ED46,47 SD3: ED73	18,361	+1.05%



PLAINTIFF'S EXHIBIT P-20

May 7, 1975

Mississippi State Senate

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
1	Tishomingo County: All Alcorn County: All	42,119	-1.21%
2	Prentiss County: All Itawamba County: All Lee County: All SD1 SD2: ED7	42,183	-1.06%
3	Lee County: SD3 SD4 SD5 SD2: ED6 8 9  Chickasaw County: SD3: ED4 Monroe County: Nettleton: SD5: ED13	42,778	+1.34%
4	Union County: All Pontotoc County: All Tippah County: SD3 SD4 SD5	42,135	-1.17%
5	Tippah County: SD1 SD2 Marshall County: All Benton County: All Lafayette County: SD2: ED2 SD3: ED10	42,928	+1.69%
6	De Soto County: All Tate County: SD2 SD3	42,461	-1.36%
7	Tate County: SD1 SD4 SD5 Tunica County: SD1 SD2 SD3 SD5 Panola County: SD1 SD2 SD4: ED21 SD5	42,564	-1.12%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
8	Coahoma County: All Tunica County: SD4 Bolivar County: SD3: ED1 8	42,550	-.20%
9	Quitman County: All Tallahatchie County: All Panola County: SD3 SD4: ED22 23 Sunflower County: SD5: ED10	42,638	+.01%
10	Lafayette County: All Less: SD2: ED2 SD3: ED10 Yalobusha County: All Calhoun Co: SD2 SD3 Grenada County: SD3 SD4	42,387	-.58%
11	Chickasaw County: All Less: SD3: ED4 Calhoun County: SD1 SD4 SD5 Grenada County: SD1 SD2 SD5	42,848	+.50%
12	Leflore County: All	42,111	-1.22%
13	Sunflower County: All Less: SD5: ED10 Bolivar County: SD5: ED58 59-61 62 63 64 66 67	42,624	-.02%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
14	Bolivar County: SD1 SD2 SD3: All Less: ED1 8 SD4 SD5: ED65	42,364	-.63%
15	Washington County: Greenville: SD3: ED12-48 Greenville North: SD3: ED49,50 SD3: ED53 54 55	42,610	-.05%
16	Washington County: SD1 SD2 SD3: ED51 52 56-62 9900 SD4 SD5 Humphreys County (all)	42,572	-.14%
17	Carroll County: All Montgomery County: All Webster County: All Choctaw County: All Oktibbeha County: SD4	42,653	+.05%
18	Oktibbeha County: SD1 SD2 SD3 Clay County: All	43,341	+1.66%
19	Oktibbeha County: SD5 Lowndes County: SD2 SD3 SD4 SD5	42,976	+.81%
20	Lowndes County: SD1 Monroe County: All Less: SD5: ED13	42,257	-.88%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
21	Winston County: All Nemah County: All Kemper County: All	42,927	+ .69%
22	Attala County: All Holmes County: All	42,690	+ .13%
23	Warren County: SD1: ED8-10 Yazoo County: All Sharkey County: All Issaquena County: All	41,992	-1.50%
24	Warren County: All Less: SD1: ED8 9 10	41,967	-1.56%
25	Madison County: All Leake County: All Less: SD1 SD5: ED20 SD5: ED21	42,440	- .45%
26	Leake County: SD1 SD5: ED20 21 Neshoba County: SD4 SD5 Scott County: All Newton County: SD1: ED10 12 SD3 SD4	42,730	+ .23%
27	Neshoba County: SD1 SD2 SD3 Newton County: SD1: ED9 11 SD2 SD5 Lauderdale County: SD1: ED32-37 SD2: Meridian Station ED11 SD2: ED12-19 SD3: ED46-51 SD4: ED54-67 Meridian: SD5: ED70,70B,71,72 SD5: ED81-83	42,837	+ .48%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
28	Lauderdale County: Meridian: SD1: ED20-31 SD2: ED1-10 SD3: ED38-45 SD4: ED52-63 SD5: ED73-79	42,357	+ .53%
29	Lauderdale County: SD4: ED68 69 SD5: ED80 84 Clarke County: All Greene County: All Wayne County: SD1 SD2 SD3 SD4: EL3 5 SD5: EL16	42,305	- .77%
30	Rankin County: All Less SD5: ED30,32	42,996	+0.85%
31	Hinds County: SD1 Tract 101: ED76 77 Tract 102: ED78 ED79 80 81 82 83 84 85 86 Tract 105: ED89 90 93L Tract 106: ED94L, 95L SD2 Tract 103: ED88 Tract 105: ED89L 90L Bolton: ED91 Tract 105: ED93 Tract 106: ED92 94-96 98 SD3: Tract 106: ED200 Tract 107: ED151L 199 Tract 108: ED153L 193M	43,020	+ .91%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
	Tract 110: ED192A 192B 192C		
	Tract 111: ED188 189 190M 191L		
	Tract 112: ED152 195L		
	Tract 113: ED197 198 202 203 204		
	SD4:		
	Tract 105: ED93M 149		
	Tract 106: ED95M 96L 150		
	Tract 107: ED97 Raymond: ED142		
	Tract 107: ED151 199M		
	Tract 108: ED153 193L		
	Tract 110: ED159 160 161 162		
	Tract 111: ED190L		
	SD5:		
	Tract 107: ED194 199L		
	Tract 111: ED190 191		
	Tract 112: ED186 195 196 201		
	Tract 113: ED202L 204L		
32	Hinds County: SD3: Jackson: Tract 24: ED124L 125L 126 127 Tract 25: ED108L 109L 111 Tract 26: ED106 107 171(all) Tract 27: ED102 Tract 31: ED132 133 172(all)	43,004	+ .87%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
	Tract 32: ED130 131(all)		
	Tract 33: ED128 129 175 176 177(all)		
	Tract 34: ED134 134B 173BL		
	Tract 35: ED181L		
	Tract 36: ED178 179(all)		
	Tract 37: ED164, 185		
	SD3: remainder		
	Tract 109: ED156L 158L		
	Tract 110: ED159L		
	SD4:		
	Tract 109: ED158		
	SD5: Jackson		
	Tract 30: ED170 170B		
	Tract 34: ED173 ED173B 174		
	Tract 35: ED180 181		
	Tract 38: ED182 183		
	SD5: remainder		
	Tract 111: ED187		
33	Hinds County: SD1: Jackson Tract 6: ED19 21 Tract 8: ED23 Tract 9: ED26 27 SD2: Jackson Tract 7: ED22 Tract 7: ED119 120L 121 Tract 8: ED23L 24 25 Tract 9: ED27L Tract 10: ED28 29 30(all) Tract 11: ED34 SD2: remainder Tract 103: ED87 143 146L	42,975	+ .80%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
	SD4: Clinton (all)		
	Tract 103: ED135		
	135B		
	135C		
	136		
	Tract 104: ED137		
	138		
	139		
	140		
	141		
	SD4: Jackson		
	Tract 7: ED120		
	Tract 23: ED122		
	123		
	SD4: remainder		
	Tract 103: ED144		
	146		
	147		
	Tract 104: ED148		
	Tract 108: ED154		
	Tract 109: ED155		
	156		
	157		
34	Hinds County:	43,102	+1.10%
	SD2: Jackson		
	Tract 11: ED31L		
	Tract 12: ED36		
	37L		
	Tract 13: ED40L		
	SD3: Jackson		
	Tract 26: ED105		
	Tract 27: ED67M		
	100M		
	101		
	SD4: Jackson		
	Tract 19: ED63		
	64		
	65		
	66 (all)		
	Tract 20: ED69		
	70 (all)		
	Tract 21: ED71		
	72		
	112		
	113		
	114		
	115		
	Tract 22: ED73		
	74		
	116		
	117		
	118		
	Tract 24: ED124		
	125		
	Tract 25: ED68		
	108		
	109		
	110		

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
	SD5: Jackson		
	Tract 11: ED31M		
	32		
	33		
	Tract 15: ED165		
	Tract 16: ED50M		
	51		
	52		
	53		
	54		
	166		
	167		
	Tract 17: ED59		
	60		
	61		
	62		
	Tract 18: ED56		
	57		
	58		
	Tract 27: ED67L		
	100L		
	169		
	Tract 28: ED55		
	168		
	Tract 29: ED99		
	163		
	164		
	164B		
	Tract 30: ED103		
	104		
35	Hinds County:	42,872	+5.6%
	SD1: Jackson		
	Tract 1: ED1		
	2		
	2B		
	3		
	Tract 2: ED4		
	5		
	Tract 3: ED7		
	8		
	Tract 4: ED9		
	10		
	11		
	12		
	Tract 5: ED13-18		
	Tract 6: ED20		
	Tract 12: ED35		
	37		
	Tract 13: ED39		
	40		
	Tract 14: ED43		
	SD1: Remainder		
	Tract 101: ED75B		
	SD2: Jackson		
	Tract 2: ED4L		
	6		
	Tract 13: ED38		
	39L		
	41		
	42		

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
	Tract 14: ED43L 43B 44 Tract 15: ED46-49 Tract 16: ED50L Tract 29: ED45 SD2: remainder Tract 101: ED75L 75BL		
36	Simpson County: SD1 SD2 SD3: Mendenhall: ED16 Smith County: All Jasper County: All Rankin County: SD5: ED30,32	43,285	+1.53%
37	Clairborne County: All Cochise County: All Simpson County: SD3 all Less: Mendenhall: ED16 SD4 SD5	41,989	-1.51%
38	Wayne County: SD4: ED4 SD5: ED17 18 Jones County: SD1 SD2: ED48A,B,C SD3 SD4: ED56 57 59	42,488	-.34%
39	Jones County: SD2 all Less: ED48A,B,C SD4: Ellenville ED53-55 SD4: Remainder: ED58 SD5 Covington County: All Jefferson Davis County: All	42,945	+1.73%
40	Marion County: SD2 SD3 SD4 Walsh County: All Lawrence County: All Pike County: SD1 SD2: Magnolia: ED22-24 SD2: ED27 28 SD5	42,879	+1.58%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
41	Lincoln County: All Franklin County: All Less: SD2: ED9 Jefferson County: All	43,087	+1.07%
42	Franklin County: SD2: ED9 Adams County: All Wilkinson County: SD1: ED7,8,10 SD2 SD4	42,487	-.34%
43	Pike County: SD2: McComb ED18-19 McComb South: ED20-21 Remainder: ED25-26 SD3 SD4 Amite County: All Wilkinson County: SD1: ED9 11 SD3 SD5	42,700	+1.16%
44	Pearl River County: SD1 SD2 SD3 SD4: ED30 31 SD5: ED15-18 Lamar County: All Forrest County: SD2: ED7-8 Marion County: SD1 SD5	42,703	+1.16%
45	Forrest County: SD1: Hattiesburg ED9-27 SD2: Hattiesburg ED7B SD3: Hattiesburg ED29-38 Petal: ED39 Hattiesburg South ED40-42	42,247	-.91%



DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
46	George County: All Stone County: All Perry County: All Forrest County: SD1: ED28 SD2: Total ED1-4 5 6 SD3: ED43 44 45 SD4 SD5	42,924	+ .68%
47	Hancock County: All Harrison County: SD3: ED78 ED82-84 ED80 SD4: ED58-60,61B SD5: ED34 Pearl River County: SD4: Picayune: ED19-29 SD4: ED32 33 34 35 SD5: Picayune: ED12-13 SD5: ED14	43,064	+1.01%
48	Jackson County: SD4: D'Iberville: ED14-16B Harrison County: SD1: D'Iberville: ED161-165 SD1: ED166-171 SD2: West Gulfport: ED121-124 SD2: ED125,126,127,127B,129 SD3: Long Beach: ED63-68 SD3: Pass Christian: ED69-73 SD3: ED62,74-77,79,81,83,85-94 SD4: Gulfport Tract 23: ED46 Tract 24: ED40 Tract 25: ED40B ED41 ED42 SD4: West Gulfport (all) Tract 24: ED56,57 Tract 31: ED55 SD5: D'Iberville Tract 33: ED33 SD5: remainder Tract 2: ED36B Tract 15: ED38,38B Tract 16: ED39 Tract 32: ED36 Tract 33: ED37 Tract 34: ED35 SD4: ED61A	42,019	-1.44%

DISTRICT NO.	DESCRIPTION	TOTAL POPULATION	PERCENTAGE OF DEVIATION
49	Harrison County: SD1: Biloxi: ED130-160 SD5: Biloxi Tract 6: ED25-28 Tract 8: ED -3 Tract 9: ED ,5,5B,5C Tract 10: ED6-12 Tract 11: ED13-16 Tract 12: ED17,19 Tract 13: ED20	43,014	+ .89%
50	Harrison County: SD2: Gulfport: ED95-120 SD2: remainder Tract 15: ED120 SD4: Gulfport Tract 14: ED54,9900 Tract 21: ED50 Tract 22: ED51,52,53 Tract 23: ED47-49 Tract 26: ED44,44B,45 Tract 27: ED43 SD5: Gulfport: ED29-32 SD5: Biloxi Tract 12: ED18 Tract 13: ED21 22 23 24	43,249	+1.45%
51	Jackson County: SD2: Pascagoula: ED45 SD3: Pascagoula: ED48-72,9900 SD4: Gautier: ED9 SD4: Ocean Springs ED2-13G SD4: ED19 29-30 21-26	42,084	-1.29%
52	Jackson County: SD1: SD2: Escatawpa: ED31,31B SD2: Moss Point: ED32-44 SD2: ED46 47 SD3: ED73 SD4: ED17,18,18B ED20 ED27 ED28 SD5:	41,895	-1.73%

Plaintiff's Exhibit P-25  
May 7, 1975

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

CIVIL ACTION No. 3830

PEGGY J. CONNOR, ET AL., *Plaintiffs*

VS.

WILLIAM L. WALLER, ET AL., *Defendants*

*DEPOSITION OF HENRY J. KIRKSEY*

APPEARANCES:

FRANK R. PARKER, ESQUIRE,  
Attorney at Law  
Lawyers' Committee for  
Civil Rights Under Law  
233 North Farish Street  
Jackson, Mississippi 39201

REPRESENTING THE PLAINTIFFS

GILES W. BRYANT, ESQUIRE,

Assistant Attorney General  
Post Office Box 220  
Jackson, Mississippi 39205

REPRESENTING THE DEFENDANTS

Taken at the Instance of the Plaintiffs,  
223 North Farish Street  
Jackson, Mississippi  
March 17, 1975.

[2]

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[3] *HENRY J. KIRKSEY*, sworn by Polly J. Pinson to  
duly answer questions, testified as follows:

*DIRECT EXAMINATION BY MR. PARKER:*

Q. Would you state your name and address for the record,  
please?

A. Henry J. Kirksey, 1123 Robinson Street, Jackson,  
Mississippi.

Q. Let me hand you a copy of a document marked, "re-  
sume" and ask if you can identify that?

A. Yes, this is my own resume.

Q. Does this document accurately state your qualifica-  
tions, training, background and experience in the areas of  
redistricting, legislative reapportionment, map making,



familiarity with census data, political and electoral experience?

A. I think it does.

Q. Was this information that was supplied by you?

A. It was.

BY MR. PARKER: I ask that this resume be admitted and be marked as Exhibit "1" to the deposition. (Whereupon said resume was marked as Exhibit "1" to the deposition.)

Q. Mr. Kirksey, are you a registered voter in Mississippi?

A. Yes, I am.

[4] Q. In which county?

A. Hinds.

Q. How long have you been a registered voter in Hinds County?

A. Since 1962, I believe.

Q. What is your race?

A. Black.

Q. And I see from your resume, you were a candidate for the Mississippi Senate in 1961, is that correct?

A. That's correct.

Q. And what was the result of your Senate race?

A. The—I was running on Post 5 of, I believe, Senate District #22, Hinds County, and the election was won—this was in the November general election, by Don Spann; there were three candidates, Jean Muirhead and myself were the two additional. I ran third. I had in excess of 10,000 votes. All of my votes came from—I'll say the overwhelming majority of my votes came from the black community as I expected. I had a majority of all the majority black voting precincts in Jackson and a fair vote outside of Jackson where I had actually no contacts at all. My campaigning was—in terms of money—limited to about \$85 that I received two or three days before the election and I spent most of that amount for some spot announcements with WOKJ so that that, except for perhaps, well, I'm sure, less than a dozen appearances in various—with other candidates for office [5] in the City of Jackson, that was the extent of my campaign. I didn't actually enter the race with the idea of winning because my knowledge of the population distribution and the relationships of blacks to whites in terms of the total population and the fact that whites have never voted for blacks, regardless of what that position may be, that I—I

knew very well that I couldn't win. As a matter of fact, the first appearance was at the Elks Rest out on Lynch Street and my subject—I appeared with the other black candidates and there were three or four of the total of Hinds County, something like a dozen, I believe, and I stated my position and why I was running and the impossibility of winning, after which the other candidates and particularly Mrs. Sanders and—I can't recall the other person running for the legislature, told me that if that was the approach I was going to take, they didn't want me to appear again with them, because they were running to win.

Q. Would you have liked to have won if it had been possible?

A. Well, obviously I very much would have liked to have won, but I knew I couldn't; I knew that from what I know about the history.

Q. Well, what I'm asking about is whether you ran as a serious candidate; you would like to have won if it had been possible?

A. If it had been possible, most assuredly I would— [6] you know, liked to have won.

Q. O.K., now, would you identify the race of Mr. Spann who won that election?

A. He's white, as is Jean Muirhead, the incumbent at that time.

Q. Are you familiar with the racial make-up of the Hinds County delegation to the Mississippi House of Representatives and Mississippi Senate?

A. With one exception throughout the state, all of them are white; that means that Hinds County delegation is white, every other county delegation is white with the exception of Holmes.

Q. And the Hinds County delegation to the Mississippi Senate is also white?

A. It is all white.

Q. Are there any blacks in the Mississippi Senate at all?

A. None.

Q. You've been working on legislative reapportionment and county redistricting and accompanying relevant census data and maps from approximately what date?

A. 1971.

Q. You've been working in this area for approximately four years?

A. Yes.

[7] Q. Are you the Henry J. Kirksey who is the Plaintiff in this case?

A. Yes, I am; the Conner versus Waller?

Q. Yes?

A. Yes.

Q. Let me ask you first of all if you're familiar with the proposed State Legislative redistricting plan that was submitted to the District Court by Dr. David Valinsky on February 7th?

A. Yes, I am; as a matter of fact, the Loyalist Committee retained me to develop a series of maps on the districts for Dr. Valinsky, for the Dr. Valinsky plan.

Q. And did you obtain copies of the descriptions of the districts proposed by Dr. Valinsky and also copies—and also observe the census maps with which those districts correlate?

A. Yes; what I received was, and I might explain the process. The Valinsky plan was drawn on a series of county and city census maps of Mississippi and simply done with the colored marker, and because each is—each map is of one county and the districts overlap, obviously it would be much better, much more convenient if the maps put together so as to show the bounds of an entire district so that in doing that, in transferring the information of the boundary of the census map to the county maps published by the Mississippi Highway Department I had to study the census maps carefully and the data for the [8] district as developed by Dr. Valinsky.

Q. O.K., let me hand you these two large bound volumes, one labeled House of Representatives, State of Mississippi, Plaintiff's Proposed Reapportionment Plan—V Plan, and the other one labeled Senate, State of Mississippi, Plaintiff's Proposed Reapportionment Plan—V Plan, and let me ask you to identify these two collections of maps?

A. These were maps that I developed—districts that I developed from county and Highway Department maps and the V Plan is just an abbreviation of Valinsky Plan.

Q. So these maps are the plan—state-wide plan for legislative reapportionment for the House and the Senate, proposed by Dr. Valinsky in his testimony on February 7th?

A. Correct.

Q. Now the base maps that were used in drawing these maps, where did they come from?

A. That was from the Bureau of the Census.

Q. No, the base map that you used?

A. Directly from the Mississippi Highway Department Map Division.

Q. And what are these called in the vernacular of the Highway Department, what kinds of maps?

A. Third scale county maps.

Q. Now, in the case of municipalities, what kind of maps did you use?

[9] A. Well, for the most part, and there are a couple of exceptions, they are maps obtained from various Chambers of Commerce of cities over the state and we only used those where it was necessary to show the bounds in some detail in those cities.

Q. Now, let me just ask you briefly to tell us; you got these Highway Department maps and you saw Dr. Valinsky's descriptions in—according to enumeration districts, supervisors districts and counties and you also saw his census maps. What did you do; just tell us basically what you did?

A. Basically, the idea was to determine the number of counties involved in each district and to then, from a study of the census map, to locate the enumeration districts and other census boundaries such as supervisor districts on the maps obtained from the Highway Department. It wasn't always easy because there has been some districts or what we call county beat changes since the census was taken in 1970, but my familiarity with maps, census maps and the type of maps published by the Highway Department enabled me to, I think, very accurately transfer the districts drawn and described by Dr. Valinsky to these county one third-scale maps.

Q. And have you compared these maps that you've drawn where it outlines the Valinsky districts with the census maps that Dr. Valinsky produced on February 7th and that were admitted in evidence in the case?

[10] A. Yes; as a matter of fact, I had the census maps on which Dr. Valinsky's plan was drawn by Dr. Valinsky, as a matter of—right before me as I developed these, the plans or transferred the plans to these maps.



Q. And what was the comparison between the boundary lines that you've drawn—the Valinsky plan boundaries on the Highway Department maps and the census map; how do they compare?

A. I would say that they are very accurate.

Q. So—so they're the same boundary lines?

A. We're talking about exactly the same boundary lines and I'm not saying it's 100% accurate but for the most part, I would say that I'm very close to 100% accurate.

Q. Did you particularly check the boundaries as they occur in Hinds County and the City of Jackson?

A. Yes, I did.

Q. How accurate are they in Hinds County and the City of Jackson?

A. I would say in Hinds County and Jackson, they are very accurate, 100%.

Q. You checked them over very carefully, did you?

A. Yes; there is one thing that perhaps should be explained in drawing—first of all, I didn't explain that what happens is, I went to Neely Blue Print and obtained some—what they call boundary tapes and these tapes are adhesive and they stick right to the paper. Now in delineating or putting the [11] tapes on to maps of cities, the problem was to put the boundary, the tape, on the streets concerned, but in many cases where, in doing that would have obscured the name of the street, I placed the tape either under or over the street of the boundary so as to preserve, to the greatest extent possible, the ability to identify the boundary by reading the names of the streets. (Asks about maps off record.)

BY MR. PARKER: I would like for these two to be marked as exhibits; now what I'd like to do is actually retain possession of these exhibits and reproduce them and give you a copy.

BY MR. BRYANT: That's fine.

BY MR. PARKER: I'd like to ask that the House of Representatives maps, series of maps, be marked as Exhibit "2" and the Senate maps as Exhibit "3". (Whereupon House of Representative's maps were marked as Exhibit "2" to this deposition, and Senate maps were marked as Exhibit "3" to this deposition.)

BY MR. PARKER: I would like the record to show that these are exhibits and part of the deposition testimony.

BY MR. PARKER:

Q. Now, Mr. Kirksey, have you also drawn proposed state legislative redistricting plans for the House and the [12] Senate?

A. Yes, I have.

Q. Do you have the descriptions of those plans?

A. Yes, and may I explain a point or two about this?

Q. Sure.

A. They are typed up and I really never had a chance to proof them until late Sunday. There are not only some typing errors in it, but there are some changes that I made as I developed the maps from my own plan. Now, to explain that, it is one thing to draw a map, and I use maps of this size, which is a state map, and show very little detail and smaller maps of the state, such as is attached to the back of the printed—the typed copy of my plan, which shows even less detail, thus when you developed the plan on a map, a large scale map, you can often find that what you thought was a very compact district, was not exactly compact and one of the—one of my prime efforts has been to develop districts that are compact. So I did make, more so in my plan, because, as I said, I was really finalizing it as I made the maps for it, so that the—these state-wide maps may have one or two errors because I'm looking at one last night and the reason for that here in Wayne County is that I made that change on the—the plan as I took a look at the plan on a third-scale map and I didn't like the bounds and I simply changed them as I was making the maps, revised my statistics so that as to be in accord with the plan as revised.

[13] Q. Well, let me ask you to do this, then, Mr. Kirksey; would you please give us your descriptions as they are presently and then you can make corrections as long as you supply a copy of the corrections to Mr. Bryant.

BY MR. PARKER: Is that all right with you, Mr. Bryant?

BY MR. BRYANT: That's fine.

BY MR. PARKER:

Q. O.K., why don't you give us a copy of the descriptions of your districts as they are now, with reserving to you the right to make corrections?

A. Yes, well, O.K., but I will say this, that the—I have with me the original typed copy and if these can just be used

here, then I have no problem with it because—let's see, that's the House of Representatives. . . .

Q. Well, is this copy identical to the typed copy?

A. That was the original, that was the first typing. . . .

Q. And you want to retain the original typed copy to make your corrections?

A. Let's see, now—let me give you one more copy and then I'll try and explain so that—that's the House of Representatives and this is the Senate. That's for Mr. Bryant. What I will show you now is the same typing with corrections marked on it and I did not mark the corrections on the original type because this is done on ease-erase paper and rather than type [14] the whole thing over again, I can simply erase and put in the—where I've made changes, I can put the changes in without having to type the whole thing over. It is quite a job. So this is the original of the Senate plan and the House plan and I have—you have a marked copy of the House of Representatives; this is a correction copy of the Senate. Now, if you don't mind, if I'm to be asked questions about it, I'd rather have the marked copy and let you have these two copies which are not marked for correction. . . .

Q. All right, let me get this straight now. This document that you've just handed me that's labeled Mississippi House of Representatives and has written on the top, "New", now this is the final version of your House plan?

A. That's the final version; it's the—with corrections noted on there in pen.

Q. With corrections? O.K. You want to retain this to make corrections on the typewritten original?

A. Yeah; let me explain. What you have in your hand is a Xerox copy of this.

Q. Um huh.

A. So I made the corrections and the changes on the Xerox copy rather than on the original. Now all of the changes or notes that you see in there are not necessarily changes in the plan but rather I was looking for details, errors in typing such as the omission of colons, commas, periods, and, for that [15] matter, some descriptions were left out. Now the—I developed the plan in longhand and I might say that very few people can read my handwriting, so I wouldn't dare turn that over to the typist to be typed, so what I did was to type it myself and I'm not a good typist

and I make a lot more errors typing than I make in longhand so that I'm not trying to blame Laverne because she is a very good typist, but I left out a lot of the information myself—the data myself in typing it so that she could read it so that the errors were multiplied by the fact that I typed a copy then gave it to her to retype and I left out a number of descriptions and then, of course, she's not infallible; she made a few errors herself.

Q. What procedure would you suggest? Shall we Xerox this and put this in evidence with the right to file a final corrected copy or . . .

A. That would be fine.

BY MR. PARKER: Do you have any objections to that?

BY MR. BRYANT: That will be fine.

BY MR. PARKER: O.K. Do you want a copy of this too?

BY MR. BRYANT: Yeah, if you have an extra.

BY MR. PARKER: Why don't we make Xerox copies of each of these . . .

BY MR. KIRKSEY: Let me, before you do that [16] explain one little feature about the two plans. I developed the plan and when I got to Hinds County, I simply skipped it and went to the next county and it was the very last part of the plan to be developed so you will see evidence of that in the fact that, on the Senate plan, I have—when I reached Senate proposed—I'm sorry; when I reached proposed District #70, I stopped and went to the next. In other words, I jumped the number of districts that I knew were necessary for Hinds County, beginning with #71, and that took me from Hinds County over to Warren in District #83, so I came back. Now, when you look at this plan, on the House plan particularly here—on the Senate plan—I'm sorry, because they were two, in effect, two separate plans, the Hinds County plan on the Senate plan, although it begins about District #30—30, it is, I believe, typed on the very end of this list, for the simple reason that I had developed the plan around—you know, skipping Hinds County, so that when the typist got to that part—I had told her what had happened but she preferred to put it on the back for whatever reason. Additionally, there is a slightly different heading on the Hinds County part than on the [17] districts for other counties for the simple reason that it was much more convenient and since Jackson and Hinds are so much larger than the other counties, much more convenient for me to



work exclusively with census tracts than with supervisor districts and that kind of thing.

(Counsel for Plaintiff obtains copies.)

BY MR. PARKER:

Q. Why don't you describe for us what criterion you followed in drawing these two plans for the House and Senate?

A. Well, you always begin with the equalization of population which is a Constitutional requirement. I proposed to develop single member districts throughout the state for the simple reason that it is the simplest way to delineate districts on an equal representation basis. I took into consideration homogeneous population, that is the social and economic characteristics; I tried to avoid to the extent—to the greatest extent possible the fragmentation of—concentrations of homogeneous population and that includes racial population. I tried to avoid—deliberately attempted to delineate districts that were urban whenever possible and rural, whenever possible. To do this, I used the data developed in the 1970 decennial census of the population, State of Mississippi, by counties and/or cities of the state.

Q. What was the source of your population data for [18] these districts?

A. The Bureau of the Census statistics through various publications and I have in my possession, a print out of all of the enumeration districts of the state and I have had this since the 1971 involvement in the Conner versus—now Conner versus Waller reapportionment.

Q. We know that whenever one constructs a redistricting plan, one has to work from certain building blocks or basic units in the construction of representative districts. What were the units that you employed in the drawing of this plan?

A. Well, the Bureau of the Census enumerates the population on the basis of what is called Census Enumeration Districts and these are very well defined geographic areas with definable and visible boundaries wherever possible. Now, the exceptions would be on—in cases where—I might stop there and say, first of all, the enumeration districts do not cross the political boundaries. That is to say, they don't cross municipality boundaries, they don't cross county governmental boundaries and, of course, they don't cross county boundaries nor state boundaries, so that the enumeration

district would be a geographic area within a county or a city or a beat that has definable boundaries, and in which the population of that geographic area is totaled up or summed up by the Bureau of the Census. The total of all enumeration districts within a city, [19] within a county beat, is the total population, for example, of the city and the total of all those in the county, including the city, would be the total population of the county and so on, so that the total of all of the E D's and all of the counties in the state would be the state population, so that I'm using data, basically that data which was developed at the smallest scale by the Bureau of the Census as a total. The additional information used was that in certain municipalities of the state, principally Jackson, Biloxi, Gulfport—well, all of the coast cities with the exception of Moss Point and Pascagoula, and in Meridian, where block data was available and block data is, for all intents and purposes, an enumeration district in that the population of every block in the City of Jackson is totaled up by the Bureau of the Census so that for all the blocks in the City of Jackson, you know you can determine the population. Now these are the building blocks that I used in the development of the population of the districts that I proposed.

Q. Did you use any population statistics or any population data other than U. S. Census data?

A. No.

Q. So all of the districts that you've drawn are defined in terms of their population based on official U. S. Census data?

A. Correct.

[20] Q. Now we've heard a lot of discussion in past weeks about preserving the county lines. To what extent do the districts for the House and the Senate as determined by your plan preserve or not preserve county lines?

A. The—I think that to a very great extent I have used county lines—the matter of saying preserved, I'm not sure precisely describes what my view of delineating districts; I'd like to use the county line as a district boundary because it is, although in many cases, not a visible thing, everyone recognizes it, therefore, the affect is to have a visible boundary and it is extremely important to be able—not only for the candidate, but for the people who live in a district to be able to visualize the boundary of the district in which they live, so I have used the county boundaries to a very great

extent in delineating districts on that basis. I have not avoid—deliberately constructed districts that lack compactness because of the existence of a county line. Now that may be another way of saying that I didn't regard the county line as being unbreakable.

Q. So your districts do, in some cases, break the county lines or go across county lines?

A. Very definitely; I have a number that cross county lines.

Q. Now why have you done that?

A. Because it was necessary to develop the norm size [21] population for a district. Now, first, I've used the word, "norm", now, let's back up a bit; to determine the population size of a House district is to divide the total population of the State of Mississippi by the membership of the House of Representatives and in this particular case, using the 1970 census, that's 18,171.4 for the—to develop Senate districts is to divide the total population by the membership of the Senate and that, being 52, gives you a district population of 42,632.9. Now to develop districts—house districts with the 18,000-plus population and to develop Senate districts with over 42½ thousand population means that you're going to have to cross county lines. The reason being that the population of counties in the State of Mississippi begins with 2,737 in Issaquena, all the way up to 214,973 in Hinds County. Now there are 82 counties; some 20 counties are around the population of between the 2,737 to around 10,000, so we have a wide variety of county populations to deal with and 82 counties to deal with so to develop districts with norm population is to—it is necessary to cross county lines. In—often times in the delineation that—well, there are many cases in Mississippi, I said there are several cases. I don't know which means the fewer or the less, but there are several cases where we have counties that has—that are within the norm for one House district or one Senate district, but the moment you start delineating single member districts or any other type districts, for that matter, [22] you have set the pattern; you have set a pattern that you can't always alter as you proceed, thus, when you arrive at the county with a norm size population, you may not be able to preserve that county as a district. Is that clear?

BY MR. PARKER: Yes, sir.

A. O. K., so that often times in my plan, I would arrive at

a county that had a norm population and to preserve that was to back up and see if I couldn't come back to it in such a way as not to cross the boundaries, and I found, in trying to do that, that it was too monumental a problem so I just decided that the best thing was to concentrate on delineating districts that are compact and to not worry too much about whether or not I crossed the county boundaries of a county that had a norm size population. In other cases I had no real worry about crossing the county line at all.

Q. But did you make an effort to preserve county lines wherever possible?

A. Wherever possible—that's the best way, as I think I pointed out before, to make sure that you have districts that people can understand.

Q. Now where you were required to achieve equality in population, to cross county lines, how were the boundaries of districts within counties determined?

A. The—on the basis of census enumeration districts and, often times, using an entire beat or several beats within [23] a county and, in the case of Hinds County with Jackson, well, there was only one instance in the southwest portion of Hinds County where I did, in fact, cross county boundaries, so Hinds County is not so much involved as are some other counties. But normally the division of a county was done on the basis of, if possible, and a 1970 beat line and in most cases if I had to get additional population or less population than that contained in the beat, then it was necessary to follow an E D line.

Q. Are there any advantages to using the boundaries of census enumeration districts to define legislative districts?

A. The advantage is, with the exception that I think I've already noted, and that being where the E D line is conterminous with an invisible governmental boundary line, such as a beat drawn on the basis of a land section line. The enumeration district boundaries are visible and . . .

Q. What does that mean, visible?

A. That means you can see it. It's land—they are . . .

Q. It's not a chalk line drawn by the census on a highway?

A. Very definitely not. It is a highway; in other words, they would delineate a line down the street, a stream, and in some cases where there was some features not too well known, a creek or that kinds of feature, they might use a power line, but very seldom. Mostly they're using things



like rivers and creeks and highways, roads, county roads, that kind of [21] thing. Something that you can actually see on the ground.

Q. Now, in defining your districts, did you attempt to achieve districts that are contiguous, that is districts in which all parts of the districts are joined to each other?

A. I have no non-contiguous districts. All of my districts are not only contiguous, but I think to—very close to the maximum extent possible, of compactness which means that they are somewhat rectangular, round or something of that nature. I think that I've—I'm sure that I have no non-contiguous parts to any of my districts.

Q. Are these the descriptions as corrected—with corrections on them, rather, of your House districts and Senate districts?

A. Yes.

BY MR. PARKER: I ask that the copy of the House districts be made the next exhibit.

BY MR. KIRKSEY: You will find a series of arrows or marks on there that were placed on there in red and they will appear, of course, in black on the Xerox copy, and they often just point and they might be confusing that what I was pointing to for the purpose of the typist, was to an omission of colon or comma or something of that nature.

BY MR. PARKER: O. K., this would be—what number, now; for the House would be "4" and the [25] Senate would be "5"?

BY MR. PARKER: Would you hand me Exhibits "4" and "5", please.

(Whereupon said map indicating House districts was marked as Exhibit "4" and said map indicating Senate districts was marked as Exhibit "5" to this deposition.)

(Witness hands exhibits to counsel for Plaintiff.)

BY MR. KIRKSEY: Let me explain the word, "new" up at the top. Did I explain that before?

BY MR. PARKER:

Q. No?

A. I had a mass of data sheets that I used, that I developed on—primarily from legal pads and I used those to type up these copies, then when I did a quicky proof of the copies typed by this office—at this office, I then marked this 'new' so that I could put my typing aside and I did that and

so thereafter, the corrections that I made were actually on these copies that I called 'new'.

Q. So that 'new' doesn't refer to a new plan, but it refers to the corrected draft?

A. Right.

Q. Of yours?

A. Right.

Q. O.K., referring to Plaintiff's Exhibit "4" in the House districts, to what extent were you able to achieve [26] your goal of population equality among the districts?

A. In the case of the House, my greatest deviation from the norm of 18,171.4 was 2. plus 2.96% and a minus 2.79%, and that gives me a total span, that is the greatest difference between—the widest difference between districts would be 5.75%. In the case of the Senate, the largest plus deviation is 2.39% and the largest minus deviation was 2.62%, for a total span of 5.1%.

Q. You say you have in the House, you have no districts that are over plus or minus 2.96% of variance from the norm?

A. Correct.

Q. And on the Senate side, you have no districts that are over plus or minus 2.62% variance from the norm?

A. Correct.

Q. Would you tell us what procedure you followed in devising your proposed districts?

A. The—first, let me say that the idea of developing districts myself evolved from developing what I—thought about doing it for a very long time but after developing a map for the Valinsky plan, I conceived the idea that it would be possible to compact to a greater extent districts beyond what Dr. Valinsky had done. Now, as Dr. Valinsky explains, he used some computer methods to determine population centers and that he worked—and that he then proceeded to develop his plan from [27] those population centers.

Q. Those were randomly determined?

A. Yes. They were determined, I believe, as I understood his explanation, by a computer method.

Q. Random numbers taken?

A. Right, right; well, I don't know anything about computers so the random numbers don't really mean anything to me, which means that I have to explain precisely how I proceeded and that was this. I began—first of all, I deter-

mined that Dr. Valinsky's plan could have been made more compact if he had done it on a regional basis. As a native of Mississippi and a student of Mississippi history, I know that there are geographic areas in the state that are—that are what we would call homogeneous areas. I am from northeast Mississippi, Lee County near Tupelo. Tupelo and Lee County and northeast Mississippi is a geographic area quite different from what we call the delta area. It is also quite different from what we call the east-central area of the state and certainly quite different from what we call the coast area and the southwest area, so I determined in advance that I would develop plans for the Senate and the House based on these five geographic areas. Then I did the very usual thing, I think that most people do and certainly the Bureau of the Census does, is to start in the upper righthand corner. That means that I began to delineate districts from Tishomingo County in northeast Mississippi. Now, from the [28] moment that I start, I somewhat predetermine what all other districts would be like, but then the process was to take the total population, and I'll give you the first county; take the—consider the total population of Tishomingo County in terms of the norm of 18,171 and then to find where it was best, considering proximity of other counties to Tishomingo, that would be Alcorn, Prentiss, Itawamba and Lee, and to decide where to take the additional population that I needed to complete a norm size district. I decided, in the case of Tishomingo, that I would go to—I would take that additional population from Prentiss County and I determined that simply by studying the E D...

Q. When you say E D, would you...

A. The census E D's...

Q. What are they?

A. The census enumeration districts and the 1970 county beats adjoining Tishomingo in the county concerned and to decide which was—which county to take that population from to make, not only a norm sized district, but to make a compact norm sized district. Now, I then proceeded throughout the state by region; that is to say I delineated from northeast—in the northeast region to the northwestern portion of the northeast region, which would be roughly Marshall County and then, in serpentine or snake-like fashion, I would then turn back toward the east in delineating districts back toward the Alabama line and reaching the Ala-

bama line, then I would go back toward [29] the delta so that then, my last district in the northeast region would be around Lowndes and Oktibbeha County—counties, then I went to the top of the delta. The delta is in sort of an elongated egg shape and so I started at DeSoto County and worked down the delta in pretty much the same east to west serpentine fashion as I used in developing districts for the northeast region, having completed the delta which took me all the way to Warren County, into Warren County, I then started on the—what I call the east central region and that took me to Noxubee County and I used the same east to west procedure and the westward limit would be like Leake or Madison County, then going back and forth to Clarke County. Then I went to what I call the southwest region, which was to say Madison or Hinds County and worked in very much the same manner throughout that region that is basically between the Pearl and the Mississippi rivers. Then, from completion of that region at Walthall County, or Wilkinson County—whichever—where I wound up on the east or west side of it...

Q. Marion County?

A. Marion, well, it's Marion, Walthall, Lawrence; all of those counties in there.

Q. #95 ends up at Marion County?

A. Right. I then skipped over to Wayne County and worked from east to west throughout what I call the coast region to conclude my districts in the two coast counties of Harrison [30] and Jackson, so that the two coast counties—so that my—the district #122 is in Jackson County, which is the southeastern most county of the state.

Q. Did you follow the same procedure for the Senate?

A. The very same procedure was followed in the development of the Senate plan. Now, I've stated that I don't know anything about computer methods. To me, it's a very simple process of knowing what population you have to have to make what I call a Constitutional sized district, meaning to say that districts that have equal population and meet the Constitutional requirements for equal representation. It is a simple process of adding known population; that means census data, to—until you have arrived at the norm population and it's—thus, to me, it's a simple process of adding and subtracting throughout to develop this and this is the procedure that I used, just simply adding to the population



of a county, additional populations that would give me the norm population for a district or subtracting, using census enumeration districts, from the population of a county, to reduce it, a portion of that county to a representative sized district.

Q. Now it is argued in the legislature that counties are the basic unit of Mississippi government; the basic unit for government in terms of the election of officials; the basic unit of government for taxing purposes; the basic units for administrative and governmental purposes and that it's important [31] and necessary to preserve the relationship between these basic political units and their legislative representation. What is your response to that—to that contention?

A. First of all, the bill that was passed in the House, Friday passed; that would be March 14, I believe, states that the counties have been the unit of the state legislature since 1817; I'd like to point out that in 1817, the northern most county in the State of Mississippi was Warren, and of which there were only fourteen.

Q. Fourteen counties?

A. Only fourteen counties in 1817 and upon the readmission of Mississippi into the Union in 1870—1870, I'm sorry, there were about sixty-nine counties. Now, I take a very dim view of the fact of having the legislature comprised of people who look upon themselves as representing a political unit rather than people. I think that they—there should be districts in which the legislators think of their district as people and not as a political subdivision of the state. I will point out that in December, 1956, during the gubernatorial administration of J. P. Coleman, a report was prepared by Dr. Leon Wilber, who was the head of the Department of Sociology at what was then called Mississippi Southern College and is now the University of Southern Mississippi. Dr. Wilber's report shows that since 1890, the counties have been used as an instrument for the disfranchisement of blacks. He pointed out in his study [32] that the combination of counties for legislative districts was done and in such a manner that the blacks were unable to elect representatives. I would—just as a sort of analysis of what we're talking about, I have no problem with using counties to develop districts for the election of members of the legislature, except that I know about this history and most people

who are concerned or study of Mississippi, know about this. This isn't something that only Dr. Wilber knew about. Judge Coleman, for example, is a pretty widely known historian, particularly a political historian, of Mississippi and I'm sure he knew about that in his studies.

Q. You're referring to the division of the legislature into three large areas for purposes of electing of representatives?

A. Right, but not only that. That's one of the explanations that Dr. Wilber pointed out. It is possible, by combining counties, and I'll give you an example of DeSoto County and Marshall County that are combined—were combined by the court reapportionment in 1971, Conner versus Waller; in 1970, according to the 1970 Decennial Census of the Population, DeSoto County has—is within the norm for two House members. It is, and I have the population here, it's about 35,000 population. On the other hand, Marshall County has a population of 24,021, something in that neighborhood. It, thus, has in excess of one House seat. When you combine those two counties...

[33] Q. What's the racial composition of those two?

A. Well, I'm coming to that. When you combine those two counties in a district at large election, meaning that all the voters in both of the counties vote for all of the candidates for office, and there were three—there to be three offices filled, that the majority county, in this case, DeSoto, would have a voting advantage over the electors of Marshall County. Now, in...

Q. Because of what?

A. Because of the greater population in DeSoto County. Now, as to the racial distribution, in DeSoto County, and I'm just pulling this off the top of my head, my recollection is that the racial distribution or percent of the population is in the 30's, whereas in Marshall County, the black composition is about 62%. Now, the DeSoto with the two districts obviously can negate, and the low composition of blacks can negate the black majority in Marshall County; it's as simple as that. Dr. Wilber pointed to the use of the combining of, I think it was Chickasaw County with Clay County to negate the black majority in Clay County so that you can use these building blocks of one county with a low black population composition and another with a high black composition and more or less negate that. It's kind of like

saying that—I pointed out that it is a convenient thing to use a county, if possible as a unit for election of members to the legislature but it has [34] tremendous potential for resulting in other kinds of things. It's like using an airplane; it has great utility for transporting people and goods but it is also an instrument having the greatest potential for destruction of the human race; all living matter for that means, by transporting bombs. So that the counties in themselves don't mean anything. It's when you begin to contrive means of putting them together so as to disadvantage a region of the state, people by race or certain political factions. This was done, for example, in the congressional reapportionment in which they eliminated Representative Smith in the delta counties by combining him with—putting him in a district in which there were—the incumbent of that district was much more popular.

Q. So it's the combining of the majority black counties with majority white counties of greater population is one of the features of the present plan you object to?

A. Very much so.

Q. Now, how about in the instance of county-wide voting for example, Hinds County where the representatives are elected county-wide. Do you have any objections with regard to any racial effect that that might have?

A. Very definitely. The effect is the very same. In Hinds County, the black population is in excess of 39% of the total and about 75% of that black population is concentrated in a boot shaped area in the City of Jackson. Now, when [35] you have—I simply point that out because I want to come back to it later; when you have a population of 39% or less than half and compound that disadvantage by the fact that the percent of blacks who are voting age, compared with the percent of whites who are voting age is much smaller, you, in effect, have reduced in Hinds County, for example, the black composition, that is the black electors to white electors, potential and actual, to less—to about 30% or less. So I object to it in that if I believe the Court's description of practicality disfranchisement—this, I believe, is enunciated by Judge Coleman...

Q. That was where a beat from one county would be joined with another whole county?

A. Yes, that is his description, but if you join a beat with a whole county, so that the beat is smaller than the whole

county, that operates the very same way as putting a small county with a large county; putting a minority people with a majority people. It is exactly the same thing and I don't see how the Court, or anyone else for that matter, could draw a different conclusion; that it is not operative in the case of the racial composition thing.

Q. So, what is your conclusion about Hinds County?

A. As to Hinds County, that the black vote is negated; the blacks are disfranchised by a county-wide election and that's in addition to the fact that I have serious [36] questions about the value or the equality of having twelve people represent me when Constitutionally I am entitled to one and when I don't know who those people are who are said to represent me. They don't relate to the black community and since the number of representatives is so large, very few people, and I would doubt that anyone except the person who is dealing directly with the names of the representatives every day would be able to sit down and name all of the representatives of Hinds County. Now I have conducted a little survey; now I intended to make it an elaborate kind of thing but I've only developed about—gotten the result back from about sixteen people, and the largest number of representatives and senators of Hinds County, named by any one person, was seven and that person crossed up representatives and senators.

Q. Didn't know which was which?

A. Which was which. Everybody named Con Maloney; most of them said—you know, what's his name, the GE man. Everybody remembered Con Maloney, not because he is a representative or a senator but because he is always on television advertising his business. He was the one person who was named throughout and I would say that out of the fifteen, he was correctly designated a senator on eight. On the others, about five of the others, he was shown to be a representative and there were a couple of sheets that didn't classify any of them as to which—the actual office that they held.

[37] Q. Now do you know the racial composition of your proposed districts?

A. In a general sort of way; as opposed to Dr. Valinsky...

Q. Have you developed specific figures?

A. No.

Q. O.K., then how can you tell whether or not your pro-



posed single member districts will be an adequate remedy for what you've described as the dilution of black voting strength under the multi-member district scheme?

A. Well, first of all, if you have single member districts and unless you deliberately gerrymander those districts, that is to say you go through a black community into a white community to equalize the population . . .

Q. Or slice it up?

A. Yes or fragmentize one or the other, I hold that if you delineate compact districts, that you will unavoidably create districts that are majority white, some are going to be majority black. You will unavoidably come to that because of the distribution, geographic distribution of the racial population in the state and most of that will occur as far as black majority districts is concerned in the delta and the southwest region of the state, and in certain cities like Jackson where there is a very high concentration. Now, with the exception of Jackson and cities of the delta, there is [38] almost no possibility of black majority districts in my plan.

Q. Now, are these maps that I have posted here, are these maps that you've prepared showing your districts?

A. Yes.

Q. Would you just show us and name the districts or the districts that you would anticipate might have a possibility of where the black voters would be able to elect legislators of their choice from these districts, according to the districts that you've drawn, just to give us some examples?

A. Yeah, well, let me point out one other thing here before I do that. There is another consideration here. You can have, it is quite possible to have a black majority district of 60% or better and still, with no possibility of electing a representative, for the simple reason that, taking for an example, the district #30 on my House plan which incorporates a part of Tunica County, Quitman County and Panola County. Those—the blacks who live in that district or proposed district, are primarily farm workers and since that is a delta area, primarily plantation workers. They have an average education—school—number of school years completed of less than six. If they are plantation workers and they have very low educational achievements, they also have no money and one thing we do know about political campaigning is that it costs a lot of money, so the blacks in

that district, in my view, will hardly have enough money or be able to corral enough [39] money from any source to project a viable campaign, a campaign that will elect. That fact exists throughout the delta meaning that basically the greater opportunity for blacks to elect would be in urban areas, Clarksdale, Greenwood, Greenville, and possibly in counties like Bolivar and Coahoma, to a certain extent in Washington and Sunflower and Leflore where there is an overwhelming black majority and they do have certain small or large urban areas in there that they might be able to elect, but I wouldn't count any area that is rural in the delta as a positive and absolute certainty that you're going to elect a black representative from that district. I—I—I'd have to see it first. Some will be able to elect because they have been working at voter registration and have been doing political action kinds of things for a number of years. That was the case of Holmes County where Representative Clark was elected and an intensive voter registration campaign was conducted there for many years, prior to his running for that office. Now, that has not been done throughout the delta area so, in answering your question, I would point out that the potential is there, but that doesn't necessarily mean anything for, I would think that there would be a positive chance to elect in the northeast region district #6, which is Marshall County basically. I would think that the district #34, which is Clarksdale, and there is no certain to that because the population of Clarksdale is pretty close to 50-50, but I am [40] attaching some importance to the fact that there are a number of blacks there who have been politically active; that there is a possibility that they could elect, in district #34. Greenwood, I divided—Greenville, rather, I divided into two districts; one I called the central city district and that, on—this would be district #46, which takes in the downtown area, and in most cities, not just simply in Mississippi, but every place else in his country that I've been, the blacks tend to be located near the business and industrial center of a city, so I took that into consideration when I delineated two districts in Greenville; I developed a central city district and the remaining district, district #45, took in the other areas of the city, close to the suburbs. So, in proceeding from that, I think, very frankly, that the district #41, which incorporates portions of Carroll, Leflore, Holmes, and, well—Holmes County, would be one not just

simply because Holmes is the home county of Representative Clark, but because there is an overwhelming black majority population in that area, and I don't have figures, but I know that as a matter of fact; I know a great deal about the distribution of racial population throughout the state and district #40, which incorporates a portion—the southern portion and eastern portion of Greenwood, has—perhaps of the whole thing, the greatest potential for the election of a black representative. I would go down to—there's a possibility, don't get me wrong; I'm not saying [41] that the blacks are just out of it in other areas; they could possibly mount, but I have to take into consideration the time of the election—this year's election. There's a time element and everyone who is involved in trying to disfranchise blacks from electing their representatives, realize that and the longer a settlement of the reapportionment matter takes, the less are the chance of blacks who don't know where to campaign or organization now is going to be in terms of mounting an effective campaign, so that I'm saying that, with the exception of the few districts that I've named, there are, in my view, very little opportunity—I haven't finished because there is a possibility in Vicksburg, there is a possibility...

Q. District #83?

A. District #83. There is a possibility and a very positive one, in fact, almost, I would say, an 80% potential for the election, at least three representatives from the Hinds County districts in the City of Jackson, and districts in the southwest, particularly #87, which incorporates a portion of Claiborne, all of Jefferson and a part of Adams County, district #88, which is in the northeast portion of the City of Natchez, principally, has the potential of electing a black representative, and when you've gotten passed that you've had it. There is—there is a remote possibility that the blacks in the central city district of Meridian might elect, but I have no way of ascertaining that because the [42] district in Meridian is very—the population is not as compact racially as it is in Jackson. There are spotty black and white housing communities in Meridian and it's—unless you sit down and actually develop a statistic, you will not know for sure and I haven't done that so I don't know for sure, but beyond that, I would say that the chance of election of blacks to the House of Representatives, using my House plan, is practically nil.

Q. How about in the Senate plan; how many districts would you say, taking the Senate plan as a whole, would there be a possibility in which the black voters might be able, to elect senators of their choice?

A. Well, I hadn't exactly considered it in that manner, but let me just sort of guess at the possibility.

Q. Estimate?

A. Estimate, O.K., and I would have to start with Jackson on my plan. I think that there's a possibility of electing two senators from Jackson under my plan, one...

Q. The City of Jackson?

A. The City of Jackson, you know, Hinds County, but principally this would have to be done in the City of Jackson. I think there is one district that I'm almost—I couldn't explain why or why it would be elected from that; put it that way. The other district is not as—as what the politician would call as safe as that, in terms of the black [43] potential; it's not a safe district for the purpose of electing a black senator, but there's a great black majority there I'm sure. I would say that on total, I can't see more than four or five blacks being elected to the Senate, using my plan. First of all, the economics is very, very important and the senatorial districts are bigger, more people; that means greater areas than the House districts, and it costs a lot more money to mount a campaign.

Q. O.K., let me ask you about that;

BY MR. BRYANT: Off the record a minute. (Whereupon deposition was recessed for lunch and continued after that time.)

BY MR. PARKER: Back on the record, under oath.

Q. Mr. Kirksey, have you analyzed the economics or finances of running in large, at large multi-member districts as opposed to running in single member districts?

A. In terms of what it costs, the actual dollar and cent, I would say I haven't gone to that extent, but I'll try to explain that this way. You have several ways of campaigning, one being—that is direct contact and that's the age old method of grassroots, door-to-door type of campaigning that would be perhaps the least expensive but it would take—require the longest length of time to achieve anything from that kind of thing. People are getting away from that today [44] and they're going more to the electronic media; television is the most viable means of reaching the largest number of people in the shortest time, along with radio, but



then there is the matter of printing. Now, I don't know, really, what an announcement would cost on television for any length of time. I've never used it and I called in, I recall, once or twice about the prices and the only thing that I can remember about it is that it was, as far as I was concerned, prohibitive. I think I pointed out before that I spent somewhere in the neighborhood of \$75 to \$80 on spot radio announcements in a matter of a two day period at the end of the campaign. I think maybe the answer to that is to say that unless you have a lucrative source of campaign funds, that campaigning is sort of out of the reach of people who are going to campaign primarily among blacks or/and the poor.

Q. Have you analyzed it to determine whether this has any racial effects?

A. Well, definitely; that's the problem. Maybe I'm not answering the question the way you asked it, but my view is that most of the candidates who get elected are people who are supported by Chambers of Commerce, people with means. It is much more—we know, as a result of Watergate, it is much more convenient to get money for political purposes from a few sources in large amounts. It can be done quickly and conveniently but when you have to depend on the nickle and [45] dime source, it'll take you forever to get enough money to do anything with and it consumes a lot of time. So the economics of campaigning is that, first of all, if you don't have adequate money for campaigning, and maybe I could explain it by saying now that the most prestigious office in this state, political office would be that of the Governor, but if you have kept up with the news lately, there have been very few people filing to run for that office because most believe that William Winter has all of the sources of campaign funds sewed up and they believe that it is going to take so much money that you would have to get it from a few sources. It is shut out.

Q. Is there a difference in the economic status among the whites and blacks in Mississippi?

A. Very definitely. Let me point out some—try to answer that with some below poverty level statistics. When you consider the number of—and I'm going to use some round figures within the area of the accurate figure determined by the Bureau of the Census. The number of black families who, in Mississippi, who earn below the poverty level is

about 59%, but when you take in unrelated individuals along with the families, the percentage runs up to 67%. Now, the number of whites in either of those categories would be under 20%.

Q. Number of white families under the poverty level according to the census report is 15.9%

[46] A. What I remember is it is below 20, in dealing with a lot of these figures and I have developed some statistics in this connection, not necessarily in connection with the political situation but in terms of the ability of the state to support a vital education program.

Q. What effect does this have on running an at-large multi-member district?

A. I think I've stated before that the larger the district, the more expensive the campaign is going to be obviously, because for sheer miles of area to cover it increases the cost. If it increases your time it increases your costs, thus, if you have to run at large as in Hinds County and in innumerable other counties and districts over the state, you simply put an additional cost burden on the candidates.

Q. What effect does this have with regard to race?

A. It has the effect of giving the tremendous advantage to white candidates who have a much more lucrative source of campaign funds.

Q. Including their own incomes?

A. Correct. On the—well, I'd better not try to quote the per capita income because I would rather do that if I had the figures before me, but I would only say that there is a very, very substantial or very wide difference between the per capita income of blacks in Mississippi and that of whites, so that very definitely gives the advantage to the [47] whites.

Q. Now, have you examined the plan that was enacted on Friday by the House of Representatives which established in the House, two representatives per supervisor's district and two at large from Hinds County and supervisory district residency requirements and at large voting for Harrison, Jackson, George Counties?

A. To some extent, yeah, I've looked it over; I wouldn't say that I've really done any detailed study of it, except that I do know that there is a residency requirement by beat for all of three counties, and they're in numbers—in like Hinds County, for example, there would be two repre-

representatives running from each beat and two county-wide and I think in Jackson where there are—Jackson being combined with George County, there are six representatives from that—the final district in terms of numbers, district #46, there are six House seats and they have designated a representative per beat in, I believe, in Jackson and one, I think, as running at large. There are seven in Harrison County and, I don't recall specifically how that arrangement is, but I believe it's one per supervisor beat and then there would be two at large.

Q. Does this new bill, I think it's House Bill #1290, passed by the House, does this satisfy your objections to the multi member districts?

A. It just magnifies it, in fact.

[48] Q. In what sense?

A. A multi member district is a multi member district. To reduce the number of the size of the multi member district in Hinds County does not remedy the problem. In the first place, the districts currently in use in Hinds County are malapportioned; secondly, they are racially, very definitely racially gerrymandered and, so to then run at large candidates means that the advantage would very definitely, in every beat in Hinds County, as presently constituted and as proposed, this matter's presently before the court.

Q. You said at large candidates; did you mean by district?

A. By district; that's at large because, with the exception . . .

Q. At large, by districts?

A. At large by districts . . .

Q. We have to distinguish between running in a supervisors district and running county-wide. We usually refer to county-wide as at large and by district as by district even though it's different.

A. O.K., let me set forth, then, what the plan is for Hinds County. The plan is to run—the number of senators from Hinds County is exactly the same as the number of beats, five, so that as far as the senate districts are concerned, we would have five single member districts, but then [49] the plan is to have the twelve representatives running; two from each beat totaling ten and two from county at large. Now the two from—there would be no division within a beat for the two who are running in the beat, so they'll run

beat at large. That's an at large election any way you want to look at it. It's different from the county in that you're taking something like a fifth of the county.

Q. So your objections to that are?

A. My objections are the same as for any other multi member district. In the first place, the electorate does not have a clear choice as to representation, and I don't think that you can put two people together and say that this constitutes one representative. You see, my view is that each person is entitled to one representative in the House and one representative in the Senate. Now when you try to equate twelve representatives from Hinds County as one representative for each person in Hinds County, I don't think that can be done. I don't think that there are any studies which clearly equate two or more representatives with one in terms of what it means, really.

Q. Now did you say that the present supervisors districts in Hinds County are malapportioned?

A. They're malapportioned and racially gerrymandered and the gerrymander is . . .

Q. How about the districts proposed by the [50] Defendants? The Board of Supervisors, the new Board districts?

A. The very same thing. They've only maneuvered the lines; in terms of malapportionment, they are not malapportioned but the racial gerrymander is still there.

Q. Now how about for Harrison County and Jackson and George, I believe the House Bill proposes residency requirements by supervisors districts but at large voting, county wide voting. Does that meet your objections?

A. Sure.

Q. I mean does it satisfy your objections?

A. I object to it on the grounds that in Harrison County, you have serious malapportionment.

Q. Among what?

A. In the supervisor districts. One district, I believe it's district #5, has more than twice the population, 1970 census, of district #3; that is, some—in excess of 40,000 population for beat #5 to about 17,000 for beat #3. Now no one knows, at this point, as far as I know, what the beat population is in Jackson County for the simple reason that that county was redistricted on the basis of registered voters and since no one has taken the pains to ask the Bureau of the Census apparently to reenumerate the population on the



basis of the new supervisors districts, no one knows, as far as I know, what the beat population is in Jackson County as the beats are presently drawn. Now I would assume that—well, [51] I just can't believe that you could get equal population based on registered voters; I don't think it's possible. You may come reasonably close. Now, Harrison-Jackson are kind of like well, most of the southeast and coast counties along with many in the northeastern portion of the state have very low black population composition. The redistricting on the basis of voter registration in Jackson County, since there are only about 17% black, would assume that the whites are uniformly registered over the county and that, therefore, you'd come up with perhaps more or less equal population, but there has been, since the installation of the shipyards down at Pascagoula, an influx of blacks into Jackson County to the extent that I'm sure it has more than doubled since 1960, that does not mean that the percentage of the county has increased substantially because Jackson County's population has nearly doubled since 1960, which means that composition-wise, the black population remains pretty much the same but total-wise, the black population has increased. But what it means in terms of supervisors districts is that, just as in Jackson and most other cities of the state, and elsewhere, blacks are usually in the sort of a ghetto arrangement in their own community and that means that when you delineate districts on the basis of registered voters considering that blacks, according to my study, are only about 50% registered to vote, means that you could make a sizeable area—error where there is a concentration of blacks as is in Moss Point, Mississippi.

Q. Now we've heard a lot about changing the precinct boundaries. You've analyzed both the Valinsky plan for the House and the Senate and your plan, of course, for the House and the Senate. In Hinds County, does your plan or Valinsky's plan require changing of any of the precinct boundaries in the City of Jackson?

A. Yes.

Q. Whose plan and how much?

A. Frankly, I haven't counted the number of precincts that my plan nor Valinsky's plan would split. I would venture to guess that we're somewhere in the neighborhood of being close to one another in terms of the numbers. He may have fewer numbers, but I don't have any problem with

splitting precincts, particularly in an urban center like Jackson, because there is no monumental problem created for the Circuit Clerk. He has the precincts delineated on the basis of streets and he should know very easily who is east or west or north or south of whatever street the boundary line runs on, so it would be a simple matter for him to adjust the precinct population without going into a voter re-registration business, so I really don't have any problems with that in—with splitting the precincts in the City of Jackson nor, on the other hand, do I have a great deal of concern about splitting them elsewhere in that most of the boundary lines that I've drawn [53] and most of those that Dr. Valinsky's drawn are on what I described before as visible boundaries, so the Circuit Clerk should know what area—whether the people live east or north or south or west of a given creek or a given highway or what have you so I don't see a monumental problem there in terms of adjusting the poll books to reflect the number of people who are actually in a precinct.

Q. How long do you think it would take to put your plan into effect?

A. That, I think, would depend on the expertise that the Circuit Clerks over the state have in—with—first of all, how well they are oriented to reading maps, because it would be a deal where it would be much handier, the work could be more quickly done if the Circuit Clerk was well acquainted with map reading and could determine from the voter registration books and from his poll books, whether or not these—this block of voters is east or west of that line and make the adjustment and therefore, I really couldn't estimate how much time would be required and I think it really depends on whether or not that Circuit Clerk would be willing to get people working in his office if he does not have the ability to do it, who can quickly adjust the precincts—the population of the precincts; that is put the people in the right precinct. Let me point out that here in Jackson, here in Hinds County, because it's just outside of Jackson, I had the print out of [54] all of the registered voters in the Jackson area and I have found, in that print out, man and wife living in the same household, voting in two different precincts. The main reason is that the precinct boundary concerned is invisible. The Clerk doesn't know where it is on the ground nor do the people.

Q. Do you think your plan could be put into place between now and the August primaries?

A. I would think so. If I assessed the intelligence of the Circuit Clerks as being normal, or above average or average, I would think that there should be no real serious problem in that length of time. I would think, rather that it would be a much bigger problem if a voter re-registration was required, because, first of all, that would take a great deal of time giving all the eligible voters time to come in and re-register and then organizing your books and in many cases like Hinds County where they have them on IBM cards, it takes a good deal of time. In my—my method would require simply shifting the cards, if you're using IBM cards, from one precinct to another.

Q. Now, these two maps that we have here, state wide maps, who prepared these maps?

A. Those maps were. . .

Q. The lines on the maps?

A. The lines on the map?

Q. Yes?

[55] A. I drew those lines.

Q. What do they reflect?

A. They reflect the boundary of the districts that I delineated; the single member districts for the House of Representatives and single member districts for the Senate, State of Mississippi.

Q. And the base maps; what are the base maps?

A. The base maps are actually census maps. I'll explain—there is a census publication, it's a blue publication, I think we have copies here, if I may grab one. This looks like one. It is a publication that has the State of Mississippi divided into three sections. That's it.

Q. Read off the name of the publication.

A. "Number of Inhabitants of Mississippi in the United States Department of Commerce, Bureau of the Census, (PC-1-A26) Mississippi." In the very back of the publication, I hope it's still there, pages 26-27, 26-28 and 26-29 are maps of the State of Mississippi showing the county boundaries and the supervisor beat boundaries and the boundaries of certain municipalities. It must be explained, however, that these are boundaries, or beat boundaries, that is, that were—for which maps were submitted to the Bureau of the Census prior to April of 1970. In short, the Bureau of

the Census developed all of its plans for conducting a census long-before the census is taken and it has on hand, at the time the census is [56] taken, just thousands and thousands of maps. This is a composite of the counties of the northeast, composite of the counties of Central Mississippi and the coast. Now, I started out to say that the beat lines shown on these maps are not necessarily the beats that were used as of April, 1970. For example, the beats currently in use in Hinds County were approved by order of Judge Cox in H. B. Smith versus Hinds County in December of 1969, but the County Board of Supervisors did not submit that map—of the new districts to the Bureau of the Census and they sent—the Bureau simply took the census on the basis of the existing beats, that is, beats that were existing at the time that they assembled all of their maps.

Q. Before December of 1969?

A. Correct.

Q. Would you mind showing that to Mr. Bryant, please?

A. Now, the question, though, had to do with where these maps came from?

Q. Yes?

A. Now then, I took that book down to Mississippi Engraving and had them to blow up each section of that map and to make what they called kodak copies and it's really, to put it—to describe it otherwise, would be to say it's kind of like Xerox—Xeroxing copies, but it's done by photo process, filming, which also is, in part, a Xerox process. After [57] blowing it up, I, then, pieced—he had to blow it up—blew it up, of course, in three sections, and then I just simply pasted the sections together and that's what we have here, are three sections pasted together to make a full map. That is the source of the map and again, the source of the boundaries in red or violet, whichever, is—are lines that I drew on the map.

Q. And these reflect the boundaries of your proposed districts?

A. Correct.

BY MR. PARKER: I'll ask that the House plan be marked as an exhibit, Please. What I would like to do is to retain these in our custody and make copies and I will give you a copy.

BY MR. BRYANT: That will be fine.  
(Whereupon Mr. Kirksey's plans for House of Representa-



tives as shown on map was marked as Exhibit "6" to the testimony and Mr. Kirksey's plans for the Senate as shown on map was marked as Exhibit "7" to the testimony.)

BY MR. PARKER:

Q. Now, have you also drawn the boundaries of your districts on individual county maps?

A. Yes, I have, and those counties, where required; I might explain that in developing a map plan of the [58] districts on a map, a third-scale map, if I did it so that I had a large number of districts per page, well, it would be, in my view, too difficult to handle so—I, what is shown here is a limited number of districts per page and these pages, in the case of these books that bear my plan, are roughly 25 x 30 inches, so, therefore, the number of counties that I could place, put together to illustrate districts are rather limited; in other words, except for—well, in most cases, you will have just three or four districts.

Q. I hand you a volume which is labeled "House of Representatives, State of Mississippi, Plaintiff's Proposed Reapportionment Plan-K Plan," and ask if you will identify that?

A. This is the plan that I drew and it appears on the state wide map there and the K means Kirksey. The—it was done in the same manner that I developed the map for the Valinsky plan.

Q. O. K., you used State Highway Department third-scale maps?

A. That's correct.

Q. And for municipalities, you used Chamber of Commerce maps?

A. Chamber of Commerce—now, I mentioned that there was one difference. I had difficulty getting Chamber of Commerce maps for the Biloxi-Gulfport area, so the Valinsky plan [59] we had some books, that is, pages, sections of the City of Gulfport, Biloxi, Pass Christian, Long Beach and which appear in the Census Bureau as D'Iberville and today it is called North Biloxi, and a portion of Ocean Springs in Jackson County. Now, I was not able to get any of those maps when I finally got time to do my plan so I used a Bureau of the Census tract map for the coastal cities from Pass Christian through Gulfport, Biloxi, into Jackson County at Ocean Springs and that would be this.

Q. Now, what are these? These are not census tract maps, there are what? Block maps?

A. These are both census tract; they show the E D's and they show the blocks, and every block—all the blocks are numbered.

Q. But this is out of the block statistics publication of the Bureau of the Census, am I right?

A. Right. All the block population—first of all, the blocks are numbered. These numbers can be found in the block statistics publication for this census tract area and you simply determine the population for this block by looking first in Census Tract #10, then look for—you don't even look for the E D, because it isn't there; you look for block #304 and they give you the population for that block. Now both my House map of the coast cities and my Senate map are these census tract maps. Now because that map is done—printed by [60] the Bureau of the Census in black and green, I decided to use still another color, so in each case, the Senate and the House, the boundaries will be in red tape or red striped tape.

Q. O.K., are these your House and Senate plans?

A. Correct.

BY MR. PARKER: The House plan will be marked as the next exhibit, Exhibit "8", please.

(Whereupon Mr. Kirksey's map of the House plan was marked as Exhibit "8" to this testimony.)

BY MR. PARKER: And have the Senate plan marked as Exhibit "9".

(Whereupon Mr. Kirksey's map of the Senate plan was marked as Exhibit "9" to this testimony.)

[61] Q. Mr. Kirksey, so that the record may clearly reflect what we're referring to, let me hand you a publication entitled *Block Statistics, Biloxi-Gulfport, Mississippi, Urbanized Area Census* Publication HC (3)-132 and ask whether you used that publication in your accomplishment of your plan and/or the maps in the back of that publication?

A. Yes, I did. This was the publication that I relied on. There is another publication that we should get. This publication you must use if you're going to use block data.

Q. For what?

A. For the delineation of districts. If you are going to run a district line down a street where there is no ED

boundary, that is, you're going to deviate from the enumeration district boundary, then you must use this publication to determine the population in that area. Now, in the back of this publication are several maps and these are precisely the same maps that I used for the coast cities, and they are in several parts—about six parts, I believe. Each part taking up only a certain portion of the cities along the coast; that's from Pass Christian, Long Beach, Gulfport, Biloxi, North Biloxi. On the map it shows as D'Iberville and Ocean Springs.

BY MR. PARKER: Since this is an official census publication, since we seem to have so many [62] of them here we can just put that in evidence or at least mark it as an exhibit to the deposition.

(Whereupon said document was marked as Plaintiff's Exhibit "10" to the testimony of Mr. Kirksey.)

Q. Let me ask you one other question, Mr. Kirksey, about the definition of these districts, Representative Barefield and others keep saying that according to the definitions of these districts that you and Dr. Valinsky employ that they are located—that they are residences which are only in one place are actually located in two or more legislative districts, for example, I think Representative Barefield refers to the fact that he resides in a particular enumeration district which might be placed in one legislative district and then lives in a supervisor's district which is according to your description and Dr. Valinsky's description located in another legislative district and he questions how he can be actually residing in two legislative districts. Would you explain how that might occur on the basis of the designation of the legislative districts, the method employed by both you and Dr. Valinsky.

A. I listened to Representative Barefield's testimony and I just simply can't comprehend what he is trying to claim. I understood him to say that he could not determine from the map his place of residence because in the Valinsky plan and he did not have my plan to study at that [63] time, where he lived because according to the Valinsky plan he was in a beat numbered, a numbered beat that does not consist with the beat number presently used. Now, as I recall Forrest County was redistricted after the 1970 census was taken. Consequently, the district shown on census maps showing enumeration districts and county beats is different from the numbers presently in use, but I cannot for the life of me

see how that would confuse a leader of the Legislature. It's just unbelievable. It's an unbelievable expression of dumbness, stupidity.

Q. What you're saying is that the supervisor's districts as they appear on your descriptions or [sic] supervisor's districts as they existed in 1970 when the census was taken?

A. Correct and also a great number of counties throughout the state have been redistricted since the census was taken in 1970. If you cannot relate, cannot look at a census map and realize, let us use Hinds County for example, we're sitting here now in what was in 1970 based on the information that the Bureau of the Census had, supervisor District "1" which is now supervisor District "5". Now, if a person of reasonable intelligence should not be confused by that simple fact, that the data used in the Bureau by the Bureau of the Census relates to a situation in 1970. What Representative Barefield's talking about is that his district has another number now, as I understood his testimony and I [64] don't see where that should confuse him in the very least. [sic] If he is confused in his home county by census data, he's not qualified in my view to even talk about reapportionment and redistricting which has to take into count [sic] census data that was compiled in 1970.

BY MR. BRYANT: Will you note our objection to that statement.

BY MR. PARKER: I don't have any further questions at this time.

#### EXAMINATION BY MR. BRYANT:

Q. Mr. Kirksey, have you arrived at a percentage in your plan of the county lines which have been broken in the use of your plan?

A. No.

Q. Can you give me an estimate of how many county lines have been broken in drawing up the district, let's say for the House plan?

A. Probably the best thing would be to just simply count.

Q. Would you do that for me?

A. In which plan?

Q. In the House plan, just start up at the top.

A. Okay, may I make a suggestion?

Q. Certainly.

A. That the easiest way to do that would be to [65] tell you which counties are not broken.



Q. All right, if you will do it that way then.

A. Itawamba is not broken, Tishomingo.

BY MR. PARKER: What is this House or Senate?

A. This is House. I'm going straight across, I started somewhat south of the northern portion of the state, but I'll go across west and back east in serpentine fashion. Pontotoc is not broken, Monroe County is divided within Monroe, County is divided within Monroe, but there are—it is not otherwise divided, the division, however, includes a small portion of Lee County, Yalobusha County, Montgomery County, Noxubee County, Leake County, Jasper County, Clarke County, Jefferson Davis County, Jefferson County, Perry County, Green County, George County, that's it.

BY MR. PARKER: Did you count Hinds?

A. Hinds County on the House plan, I'm sorry, I missed that. Very frankly, I might have—looking at a conglomeration, I may have missed.

Q. But that would be pretty close?

A. Close. Now those are counties whose boundaries are not crossed by district boundaries but it does not mean that they are not combined with other counties.

Q. Right, I understand. Could you do that for the Senate plan?

[66] A. Okay, Tishomingo, Tippah, Benton, Marshall, De Soto, Tate, Union, Pontotoc, Itawamba, Monroe, Yalobusha, Grenada, Carroll, Montgomery, Webster, Noxubee, Holmes, Kemper, Lauderdale, with this—there is a District "26" inside Lauderdale County, which means that it's inside of another larger District "27", it's exclusively within the city of Meridian.

Q. Okay.

A. Newton, Scott, Madison, Claiborne, Copiah, Smith, Jasper, Clark, Covington, Franklin, Jefferson, Wilkinson, Amite, Marion, Lamar, Perry, Greene, Hancock, that's it.

Q. Mr. Kirksey, I believe that you testified that your plan would not require a re-registration, do I understand that correct to be in any situation—re-registration of voters?

A. I think I qualified that by saying I'm assuming that the Circuit Clerks over the State would have the expertise to transfer names from one precinct to another without requiring that person to actually show up or if a precinct had to

be renamed or renumbered that that would create no particular monumental problem for the Circuit Clerk.

Q. In what areas do you think of there would be some problems?

A. Well, personally I don't see any.

[67] Q. You don't see any throughout the entire State?

A. No. I don't see any monumental problems or what W. D. Neal called insurmountable problems.

Q. Let me see if I understood your testimony. I believe you testified that your plan was based on the 1970 census figures and apportionment maps, in other words, you're not taking into consideration redistricting since 1970 where certain counties have been redistricted?

A. The census data does not reflect anything after April of 1970.

Q. So your plan is based on that, correct?

A. Correct.

BY MR. BRYANT: I have no further questions.

A. I would like if I may—

BY MR. PARKER: Do you have something further?

A. Yes.

BY MR. PARKER: Go ahead.

A. I worked very hard on this and I just insist on putting it in.

BY MR. BRYANT: Go right ahead, I have no objection at this time.

A. My data is kind of scattered around here now. Here it is way down here. I would like to say a little bit more about the 1971 reapportionment by the Court which is the [68] current plan under which the Legislature is apportioned and to show in the record that the Legislature in 1973 adopted that plan in exactly the same manner that the Court apportioned the Legislature and I believe at a different time they added residency for candidates in Hinds County by beat very much in the same manner as the Legislature passed last Friday, March 14, then at a later date as a result of the, I believe the Virginia decision by the Supreme Court they rescinded that, if that's the proper term to use, act and went back to the original Court apportionment. Now, with the exception of Hinds, Harrison and Jackson the proposed reapportionment of the Legislature

by the House of Representatives on March 14, 1975, is, as I understand it, precisely as the Court reapportioned the State in 1971. I bring this up because when the North Dakota reapportionment decision was rendered by the Supreme Court, I think that's Chapman vs. Meier, the Attorney General of the State in a newscast stated that Mississippi was, and I'm not trying to quote him directly, in a good situation in that the Legislature had simply adopted a Court plan, therefore it was safe. A few days later, maybe a week or so later, there was a bearing on the Conner vs. Waller relating to the reapportionment of the State of Mississippi and the Attorney General then having at that time understood that the decision of the Supreme Court was directed more at the reapportionment done by [69] appellant and District Court. The Attorney General then tried to show through Representative Barefield and others that the plan adopted by the Legislature 1973 was not a Court plan because the Legislature adopted it, but the Legislature's plan. Now, that plan had massive inequities in it when adopted by the Court and that did not lessen the fact of inequity by its having been adopted by the Legislature. I have pointed already to the fact that the county unit had been a convenient method used by the political powers in the State to disfranchise black voters and it works the same way for poor whites as it does for blacks, but certainly it works against the blacks in that certain counties can be combined in certain ways so as to make it difficult for blacks to elect representatives of their own choosing. It further disfranchises them in terms of the size of the district using multiple counties or county wide districts. Now, I have analyzed to show that there is also malapportionment. I have done an analysis on a couple of—about three counties and I have tried to relate them here. In the House District "4" ordered by the Court in 1971 adopted by the Legislature in 1973, it's a district comprised of Itawamba, Lee and Monroe Counties, there are five seats designated for that district. The 1970 census population of that district was 97,038. I want to compare that district with District "46" which is Jackson and George Counties on the coast. Jackson and George [70] combined have six seats with a population of 100,434. There's a difference of one representative involved here and the population difference should be 18,171.4 but when you subtract the population of District "4" from

the population of District "46" you have 3,396. Now, that is a—that figure is only eighteen per cent—18.6 per cent of a norm district. That is a big difference there between District "4" with five seats and District "46" with six seats. The next comparison would be District "46" with neighboring District "45", Harrison County. Harrison County's District "45" has seven seats assigned to it. The population of Harrison County is 134,582. If I subtract the population of "46" 100,434 from that I come up with an astronomical 34,148. That population deviates from the norm for two House seats by almost 6.04 per cent. In fact, the difference is two norm districts between "45" and "46" but the Court and the Legislature assigned to Harrison County just seven seats. Thus, it is one seat away from Jackson and George, but it is two seats away in population. There is another problem in this whole thing of multiple county, multiple number district that I would like to speak briefly to right now and I'm going to—I have selected District "4" again and my reason for doing that are many but mainly I'm a native of Lee County and I was born and reared to age twenty-one just outside of Tupelo, about four or five miles out of Tupelo. So I know a great deal about [71] that particular area. I want to relate this to what the Court in its order of May 18, 1971, called practicality disfranchisement. That was the case where the Court said that to pair apart a small part of one county or beat of one county with the whole county was in effect to disfranchise the people in the smaller part of the county or the beat of a county. Now, if that works that way, it works in the case of pairing, and I'm repeating myself, a smaller county with a larger county. It works in pairing or putting into the same district a minority people with a majority people. It works in a lot of ways, and I don't see how the Court can differentiate between the two. Now, I think—may I just read what I have written here on this?

Q. Sure.

A. District "4" created by the Court order of May 18, 1971, adopted by the Legislature in 1973, House Bill 1389 and reordered by the House May 14, 1975, substantially as ordered by the Court in 1971, is not necessarily unique, but it contains the widest variety of representative inequities multi-member, multi-county, whole county, multi-post multi-residency and floterial districts all in one package. I was



born and grew up to age twenty-one in Lee County near Tupelo, I left the State for a period of about one week before age twenty-one. Tupeio is the thirteenth largest city in the State, 1970 census, and an industrial [72] center. Lee with 47.56 per cent, Itawamba with 17.36 per cent and Monroe with 35.8 per cent of House District "4" of the House District "4" population are the three multi-counties of the District. Itawamba is more than the—than just the eastern boundary of Lee County. It relates to Tupelo and Lee County like Pasadena to Los Angeles, or Rankin County to Hinds. Monroe, on the other hand, is midway between Tupelo and Columbus much of the Monroe population has closer ties to Columbus than to Tupelo. Additionally, Monroe has two medium size cities of its own, Amory and Aberdeen, comprises well over a third of the county's population. Other adjoining counties to Lee are much more closely related and dependent upon Tupelo, Lee County, than Monroe. Those adjoining are Chickasaw, Prentiss, Pontotoc and Union. Now let me describe the arrangement of District "4". Post "1" and "2" of House District "4" require candidates to be residents of and elected by Lee County, thus Lee County is two badly malapportioned districts since electors of Itawamba and Monroe are in nowise involved in that election, the Post "1" and "2" representatives have no reason for more responsiveness to the concerns of Monroe County than to the people of Chickasaw, Pontotoc, Prentiss and Union. Post "3" requires residency and election by Monroe County, thus Monroe with a minus 6.33 per cent of two norm districts is grossly under represented and malapportioned as a single member post district. Post "4" [73] requires residency and election by Itawamba County at minus 7.29 per cent below the norm for one House seat, the Post "4" single member district is over represented and thus malapportioned. Finally, Post "5" is a multi-county, single member district with a population of 97,038, five and two-thirds times the size of a norm district. Applying the practicality disfranchisement theory the candidate elected to Post "5" seat will be a resident of Lee County and he is. As a result of the Court's equity arrangement and as a practical matter Lee County is over represented by 15.35 per cent, Itawamba is over represented by 6.33 per cent and Monroe is under represented by 50 per cent. An elector's district is defined as a geographic area having a defined boundary. A post or subdistrict is likewise defined in spe-

cific geographic terms with a known boundary, thus, in terms of delineation, a post district or a numbered district is exactly the same, results in the same kind of election. Constitutional size population or single member district, residents, or disadvantaged, or advantaged to the extent that multi-member and post districts are malapportioned. Now, if I can elaborate on that a little bit, what I mean is, if I am a resident of a district that meets the constitutional requirements, that is norm. If I'm in a House district and it has nearly 18,171, I am disadvantaged if in another district they have a population, they have a representative with a [74] population of 16,900.

Q. Itawamba?

A. Itawamba County, or I am advantaged if in Rankin County or any other place or as in Monroe County, the people there are 34,000 strong have only one representative for 34,000.00 population, so this matter of equity works for or against people in a norm district where other districts do not meet the norm. The only way in my view to remedy that is for all districts to be single member. I want to point out one other thing. The practicality disfranchisement was next used by the court, I believe in terms of the combining of Kemper County with Lauderdale County and that is a very unique situation. I have written something on that that I would like to read here now.

Q. Go ahead.

A. "Federal Court reapportionment 1971. The Court enunciated a theory called practicality disfranchisement which was used throughout the reapportionment order 1971. The theory was applied to Kemper County combined with Lauderdale in House District 24 of the Court's reapportionment order. The Court ruled that combining of Kemper with 10,233 population with Lauderdale, 67,087, which has seven times the population of Kemper actually six and a half times, disfranchised the voters of Kemper for the purpose of electing a representative from that county. Since Kemper was also [75] combined with Lauderdale in a Senate district, District "19", First of all, there was no comparing reason for combining Kemper with Lauderdale, in either the House or the Senate district. With a ten per cent norm district population allowed by the Court alternative delineations are very great. The Court stated and I quoted Footnote 6, Page 18 of the order "Kemper is on the Alabama line and there is no other place to put it." I call

attention to that statement to my counsel at the time, George Taylor, and he just merely shoved it off and I decided that that could not possibly be and I want to present if I may, an exhibit here showing that within one hour after I set about to do so I delineated three districts in which Kemper is not combined with Lauderdale and did not disturb in any meaningful way the apportionment made by the Court. Now what disturbs [sic] me about that is—

BY MR. PARKER: Make this an exhibit.

(Whereupon said document was marked as Plaintiff's Exhibit "11" to the testimony of Mr. Kirksey.)

Q. Explain what that exhibit indicates.

A. First of all let me state that, what disturbed me about the Court's order is that it then having explained that there was no other place to put Kemper County it said that a practicality disfranchisement situation existed so that Kemper could not elect either a representative or a senator from that county. Therefore, they are assigned a [76] residency requirement to one of the post, I believe it was Post "4" in the District "24" that Kemper is combined with Lauderdale requiring that only residents of Kemper County could qualify for that post. I will not pass up pointing out that Kemper County is the home county of Senator John Stennis and I can see no other reason for that arrangement because George County is combined with Jackson County and the difference between the population of George and Jackson is considerably greater than that between Kemper and Lauderdale. There are other county combinations that are just as significant. If you can't elect with less than fifty per cent, it doesn't matter one iota whether you have ten per cent of the population or thirty per cent. The practicality disfranchisement in my view is operative in either case.

(Whereupon Exhibit "11" was shown to opposing counsel.)

Q. This is self-explanatory, isn't it?

A. Yes, let me explain that, what I have there on that map on the two sheets—two maps per sheet and at the top of the sheet one is the plan which has Kemper County and Lauderdale County combined in a district. Now that might be—you'll have to read the legend, I think it's up on the top

of the page, because it's such a small map I had to indicate the name of the county by number. I believe on that map Kemper County is number five but then I included all of the [77] adjoining districts to the District "4" and I believe it starts with 20 in Winston County, 23 would be Lowndes, Oktibbeha and Noxubee and I don't recall, 24 would be the Kemper, Lauderdale, 25 I believe I'm not sure about this, I think it's Newton, Jasper, Clarke or the other way around with the other district being Leake and Neshoba. Now, just by simply juggling those county combinations I was able to get three. In fact, there are other arrangements, you could go to perhaps and make out two or three other arrangements. In fact, had I gone on any further I could have delineated more single member districts than the Court had in that area. It's possible to have at least one more single member district. The reason I didn't do it was that it would require renumbering all the remaining districts in the State.

Now, I'll shorten it by coming to the conclusion. In my view whoever drew up that plan for the Court just simply committed a political gerrymander. I can't see any other way to explain how the practicality disfranchisement would work for Kemper County and not for other counties and why the planner or the Court could not find alternative places for Kemper County.

Q. Do you have anything further?

A. Well, I would like to make one or two statements about Hinds County if I may.

Q. About Hinds County?

[78] A. Yes.

BY MR. BRYANT: Let me ask you in all of your alternative plans there for Kemper and Lauderdale you did have Kemper in with two other counties, didn't you?

A. Yes, I think in most cases, yes, with two other counties but the average, I believe, over the State in the Court's plan is somewhere between two and three counties combined. I would like to point to what happened in Hinds County in 1971. In the—I don't remember these actions in terms of dates, but the Supreme Court ordered, if possible, the creation of single member districts for Hinds County and I think there was included in the order if it was found to be feasible and the Court stayed the election in Mississippi for a period of about seven days. There was a hearing and



the Court appointed W. D. Neal to delineate single member districts or find why and report on why it could not be done, and this is important to me because Neal's work robbed Hinds County of single member district in 1971. He created insurmountable obstacles by combining in what he called areas a number of precincts that could not be separated. Now, it's important to point out that the Court had determined that no precinct could be changed. If you were going—the Court delineated single member districts that you must not alter any precincts, so you would have to delineate districts [79] around precincts and I'm talking about precincts are defined variously. One way is an election district, another way is a voting precinct. I prefer to use just precinct. It so happened that whoever delineated the precincts for the City of Jackson with only about five exceptions incorporated them within the bounds of the census tracts of Hinds County, and as we have done in many instances here we have delineated districts in Hinds County on the basis of census tract. Within the census tracts with just one exception you cannot divide precincts and that exception would be in census tract "32" which it out on Lynch Street in the Lynch Street, Highway 80 area there is an enumeration district that runs along the Illinois Central Railroad track from one end of that census tract to the other and you could split the two precincts in census tract "32". That is to say, what we're talking about here is being able to divide—separate precincts from precincts and be able to determine the population of the precinct or precincts.

Q. In 1971?

A. In 1971. Now, remember that at that time we had no block data; therefore, the only means by which you could determine what the population of a—you could not with the one exception I have mentioned, that is census tract "32", you could not have more—you could not have two precincts in a census tract and know the population of each precinct, but [80] you could in all cases without one, two, three, four, five, six exceptions determine the population of groups of precincts. What W. D. Neal did was to combine areas or groups of precincts in such a way that he created large area populations and small area populations in such a manner that it would be impossible to delineate either House or Senate districts in those areas. Now, the background of this is that the Court had proposed at the outset

that the supervisor districts in Hinds County be used as senatorial districts and that each supervisor district would become a multi-member House district from which two representatives would be elected and that two additional representatives would be elected countywide. Now, that means to me that the Court was willing for the special master to divide the plan, W. D. Neal, to divide the plan that was a combination of single and multi-member districts. If the Court proposed to do it why couldn't the special master do it. Thus in combining these precinct areas in such a manner that districts could not be delineated, either House or Senate, W. D. Neal disfranchised the people of Hinds County insofar as it was possible to delineate single member districts. Now, what I am saying is, that with six exceptions every census tract was comprised of one or more precincts that could be the precise population according to the census could be determined, for example, in census tract one, precincts 44 and 45, the population of those two precincts is [81] equal to the population of the census tract, but since the boundary of the precincts inside the tract are not coterminous with the E.D.'s in that census tract there's no way to tell without block statistics the population of either of those precincts. Now, using the correct delineation of areas or blocks of precincts, I delineated eight House—eight single member House districts all within Jackson, the City of Jackson, which means that there would only be—it would only be necessary to have one multi-member House district for the election of the remaining four representatives. I delineated three constitutional size Senate districts in the City of Jackson which means that it would be necessary to have one multi-member Senate district for the remaining portion of the county and Jackson. However, I went further and found that I could, by simply adding ballot boxes and requiring a special poll book require that the population in Supervisor District "1" living in census enumeration District "84" and "89" would cast their ballots in a separate box, a special ballot, and the residents of, I'm sorry, let me ask a question. Did I name the precincts involved there?

Q. You said enumeration District "84" and "89".

A. Okay, let me see if I can make that clear. Enumeration District "84" and "89" are in Supervisor District "1", they are included in Liberty Grove and Cynthia precincts.

If I take those people who live in ED "84", enumeration [82] District "84" and enumeration District "89" and allow them to vote in a special box, I do the same thing for Supervisor District "2" which has to do with Flag Chapel precinct, and in that district I would exclude people, electors not living in ED "87" and ED "143". In Midway precinct and Van Winkle "1" precinct, Supervisor District "4", I would require the voters living in enumeration District "155", "56" and "57" to cast ballots in a special ballot box and in Supervisor District "3", Woodville Heights precinct I would require persons residing in enumeration District "192-C" to use a special ballot box. Now, with those arrangements and these are very clearly defined lines in which the Circuit Clerk could easily determine who lives outside of a certain enumeration district and who lives in a certain enumeration district. If the Circuit Clerk were to make those provisions I could have delineated all five Senate districts well within norm and nine House districts leaving only one multi-member House district for Hinds County, and I want to point that out because the Court in appointing W. D. Neal and I can't explain why—I can't explain why this man made more than 67 per cent errors and he is a former Auditor of Public Accounts, State of Mississippi. I'm certain that he held such a office under the gubernatorial administration of J. P. Coleman.

Q. Now, let me ask you this. Did Mr. Neal's objection to the formulation single member districts in Hinds [83] County and the City of Jackson apply today?

A. If we had to delineate districts on the basis of precincts and the Court insisted upon using Neal's data, it would apply.

Q. In terms of the census material that has since been made available?

A. No, the situation has changed.

Q. How?

A. I simply wanted to put that in.

Q. Okay, I want you to explain how the situation has changed.

A. In 1971 the block statistics were not available.

Q. This is the census count of the population of everybody in Hinds County, City of Jackson per block?

A. Correct, let me explain further, after the 1960 census the Bureau of the Census informed the City of Jackson and

the government of Jackson, that is Board of Supervisors, that the City of Jackson was entitled to become a metropolitan statistical area and in metropolitan statistical areas as defined by the census they enumerate and total up the population of each block.

Q. So what you're saying is, let me ask you this, is it now possible, having these blocks to calculate the exact population of the number of residents living within each voting precinct within the City of Jackson?

[84] A. It is.

Q. Have you finished?

A. I think so.

BY MR. PARKER: Any cross examination?

BY MR. BRYANT: No more questions.

(Whereupon the taking of the deposition was thus concluded.)

*[Deponent's Certificate Omitted]*

*[Court Reporter's Certificate Omitted]*

*[Exhibits Omitted]*



PLAINTIFF'S EXHIBIT P-32 MAY 7, 1975

MISSISSIPPI SENATE

52 Members

Norm Population Per Senate District: 42,632.92

District Number	Description County and/or Part	Total Population	Norm Population
<u>Northeast Region</u>			
1	Tishomingo: All Itasca: All Alcorn: SD2 Prentiss: SD4-5	41,551	-2.54%
2	Alcorn: SD1, 3-5 Lee: SD1 Prentiss: SD1-3	41,515	-2.62%
3	Benton: All Tippah: All Union: All	42,453	- .42%
4	Marshall: All Lafayette: Less: SD1: ED4B, 5-7 SD2: ED1B SD5: ED21	42,824	+ .45%
5	Calhoun: SD2-3 Chickasaw: SD1-4 Lafayette: SD1: ED4B, 5-7, SD2: ED1B SD5: ED21 Pontotoc: All	43,653	+2.39%
6	Lee: Less SD1	42,181	-1.06%
7	Lowndes: SD1 Monroe: All	43,167	+1.25%
8	Clay: SD1: ED2B SD2: ED21-22 Lowndes: Remainder	42,733	+ .23%
9	Chickasaw: SD5: ED12 Clay: Remainder Oktibbeha: SD1-2, 5 SD3, ED18	42,774	+ .33%
10	Calhoun: Remainder Chickasaw: Remainder Choctaw: Less SD4 Montgomery: All Oktibbeha: Remainder Webster: All	43,011	+ .69%

Delta Region			Total Population	Norm Deviation
District Number	Description County and/or Part			
11	DeSoto: All Tunica: SD1-2		42,343	- .68%
12	Panola: SD1-2,4-5 SD3: ED30-31 Tate: All		41,836	-1.87%
13	Coahoma: SD1-3 SD4: Clarksdale: SD16-18,30-38 SD4: ED39,41 Quitman: All Tunica: Remainder		43,039	+ .95%
14	Grenada: All Panola: Remainder Tallahatchie: SD1-2 SD3: ED25-26 Yalobusha: All		43,251	+1.45%
15	Leflore: SD1-2 SD3: Greenwood SD3: ED35-36,39L SD4: ED42 Tallahatchie: Remainder		42,886	+ .59%
16	Bolivar: SD1,3 SD2: ED24 SD4: ED34-35,52-53,55 Coahoma: Remainder Sunflower: SD5: ED1-4,7-11		42,257	- .88%
17	Bolivar: SD2: Remainder SD4: Remainder SD5 Sunflower: SD4 SD5: Remainder		42,415	- .51%
18	Washington: SD2: Greenville: ED12-48 SD3: ED19-50,53-55		42,610	- .05%
19	Humphreys: SD1: ED6 Leflore: SD4: ED40-41,43,44T SD5: ED16-49 Sunflower: SD1-3 Washington: SD3: Remainder SD4: Less ED5,10		42,721	+ .21%
20	Attala: SD1: ED21-22 SD3-4 Carroll: All Holmes: All Leflore: SD3: ED37-38,39-40 SD4: ED44V SD5: ED45,50		42,620	- .03%

## Delta Region cont'd

<u>District Number</u>	<u>Description County and/or Parts</u>	<u>Total Population</u>	<u>Norm Deviation</u>
21	Leake: SD3 Madison: All Yazoo: SD1: ED24-25,27-29 SD2,4 SD3: ED16,20	42,390	- .57%
22	Humphreys: Remainder Sharkey: SD1: ED7 SD5 Washington: SD1-2,5 SD4: ED5,10 Yazoo: SD3: Yazoo City SD3: ED17-18	42,010	-1.46%
23	Issaquena: All Sharkey: SD1-3 SD4: Less ED7 Warren: SD1-3 SD4: Less ED35 Yazoo: SD1: ED26 SD3: ED19,21 SD5	42,994	+ .85%
<u>East Central Region</u>			
24	Kemper: All Neshoba: SD2: ED1-2 SD3: ED25 SD5: ED14 Noxubee: All Winston: SD1: ED6-7 SD2: ED17-19 SD3: ED2-3 SD5: ED13-14 Louisville	42,660	+ .46%
25	Attala: Remainder Choctaw: SD4 Leake: SD1-2 SD5: ED20 Neshoba: SD1: All SD4: ED18-19 SD5: ED15-16 Winston: Remainder	43,043	+ .96%
26	Lauderdale: Meridian Less ED54,57,62-63,70B P52 SW State Hwy 19 ( & 8th St)	42,362	- .64%



## East Central Region cont'd

District Number	Description County and/or Part	Total Population	Mean Deviation
27	Clarke: All Lauderdale: Remainder Wayne: SD3 SD4: ED3	42,160	-1.21%
28	Jasper: All Jones: SD1: ED38 SD3: ED1, 3-4 Neshoba: SD3: ED23-24 SD4: ED7, 20-22 Newton: All	42,506	- .30%
29	Leake: SD4 SD5: ED16-19, 21 Rankin: SD1: ED1A Scott: All Simpson: SD1: ED6 SD2: ED12 Smith: All	43,037	+ .95%
30	Rankin: Remainder: Less SD5: ED32	42,602	- .07%
Southwest Region 31-35 See House-Senate Addenda			
36	Adams: SD4: ED14-16 SD5: ED17-18, 19B Claiborne: All Hinds: SD3: ED198, 203 Jefferson: All Warren: SD4: ED35 SD5	42,534	- .23%
37	Copiah: All Rankin: SD5: ED32 Simpson: SD1: Less ED6 SD2: Less ED12 SD3-5	43,187	+1.30%
38	Jeff Davis: SD2 Lawrence: Less: SD3: ED15 Marion: All Walthall: SD1: ED12 SD2: Less ED10 SD3-4	42,751	+ .28%
39	Lawrence: SD3: ED15 Lincoln: SD1: ED19-20 SD2: ED1-2 SD3 SD4: ED25		

## Southwest Region cont'd

District Number	Description County and/or Part	Total Population	Mean Deviation
	Pike: SD1, 3-4 SD2: Less ED27 SD5: Less ED33		
	Walthall: SD1: ED11 SD2: ED10 SD5	42,309	- .16%
40	Amite: All Franklin: All Lincoln: SD1: ED18, 21 SD1: Brookhaven SD2: ED3 SD4: Less ED25 SD5		
	Pike: SD2: ED27 SD5: ED33	42,688	+ .13%
41	Adams: Remainder Wilkinson: All	42,044	-1.38%
Coast Region			
42	George: SD1, 4 Greene: All Jones: SD4: ED56, 59 Perry: All Stone: SD5: ED1 Wayne: Remainder	42,240	- .92%
43	Jones: SD1: Remainder SD2: Less ED44-47 SD3: Remainder SD4: Remainder	42,269	-1.09%
44	Covington: All Forrest: SD2 Jeff Davis: Remainder Jones: SD2: ED44-47 SD5	43,184	+1.29%
45	Forrest: SD1: Less ED28 SD3: Less ED40-42, 45 Lamar: SD4: ED7B	41,889	-1.74%
46	Forrest: Remainder Lamar: Remainder Pearl River: SD1-3 SD4: ED30-32, 35 SD5: ED14-18 Stone: Wiggins: ED3, 6, 9 SD1: ED10 SD2 SD3: ED7-8 SD4: ED5	43,433	+1.68%

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District Number	Description County and/or Part	Total Population	Norm Deviation
47	Hancock: AD1 C25: ED62 Harrison: C29-30, 35 C31: ED61A, 69, 79-81, 85		
	Pearl River: Remainder	42,284	+ .62%
48	George: Remainder Harrison: CT32: Less ED62 CT33: ED37, 161, 163, 167A CT34 CT16: ED39		
	Jackson: SD1 SD2: Escatauga: ED30-31AB SD2: Moss Point: ED32-33 SD2: ED46-47 SD3: ED73 SD4: ED17, 18B SD5		
	Stone: Remainder	42,234	+ .71%
49	Jackson: Pascagoula: SD2: ED45 SD3: Less ED73 Moss Point: SD2: ED34-44	42,707	+ .17%
50	Harrison: CT1-5, 7 CT6: ED150-151 CT8: Less ED3 CT33: ED23, 162, 165, 167B CT9501-9503		
	Jackson: SD4: ED8, 18A, 19	42,847	+ .50%
51	Harrison: CT6: Less ED150-151 CT8: ED3 CT9-13, 15, 17 CT14: ED32, 116-118 ED119: ED18 E. of Hill Pl. Ext.	42,887	+ .60%
52	Harrison: CT14: ED54, 119 Less B518 Ext. Hill St. Ext. CT14.99 CT16, 18-24, 26-28 CT25: Less ED62 CT31: Remainder CT32: ED95	43,299	+1.56%

## MISSISSIPPI SENATE

District Number	Hinds County Description by CT EDs and Blocks (B)	Total Population	Norm Deviation
31	Jackson Part: 1-4 5: ED13-14: East of Hanging Moss EL18 12: ED37: B120 13-15 16: ED50, 53-54, 166-167 ED51: Less B321-322 ED52: B205, 210 28: ED55: East of N. West ED168: North of Pearl 29: ED45, 163, 164A County Part: 101: 102: ED78-80	42,897	+ .52%
32	Jackson Part: 5: Remainder 6-10 11: ED31L, 33-34 12: Remainder County Part: 102: Remainder 103: ED87 ED88: East of Magnolia Rd ED143	42,732	+ .24%
33	Jackson Part: 11: Remainder 16: Remainder 17-20 21: ED71 ED72: B113 ED112: Less B209, 220 24: ED124: Less B136-109, 206 ED125 ED126: B208-209 25-27 28: Remainder 29: Remainder 30: ED103-104, 170A ED170B: B301-307 31: 32: ED130: B101-108 ED131: Less B211, 216 34: ED134AB: B101-102 ED173A: B103 County Part: 111: * ED187: *Part B901, B902-908*	43,225	+1.39%



District Number	Hinds County Description by CT - EDs and Blocks (B)	Total Population	Norm Deviation
34	Jackson Part: 21: Remainder 22-23 24: Remainder 30: Remainder 32: Remainder 33 34: Remainder 35-38 County Part: 109: ED155 ED156: Less B211-212 ED158: B203-204 110: ED159: B101-102, 109-112 ED192C 111: *ED187: *Part B901, B909-911 ED188: Less B917 ED189: Less B916	42,028	-1.42%
35	County (all): 103: *Remainder 104-108 109: Remainder 110: Remainder 111: *Remainder 112 113: Less ED198,203	42,040	-1.39%
36	Hinds County Part Only: 113: ED198,203	2,051	

[10.1.1.1]

PLAINTIFF'S EXHIBIT P-33 MAY 7, 1975

## MISSISSIPPI HOUSE OF REPRESENTATIVES

122 Members

Norm Population Per House District: 18171.41

District Number	Description County and/or Part	Total Population	Norm Deviation
1	Tishomingo: All less SD5: ED22 Prentiss: SD4: ED22-23 SD5: All	17,909	-1.00%
2	Alcorn: SD1: Less ED15 SD2: All SD4: ED20-23	18,189	+ .02%
3	Alcorn: SD1: ED15 SD3: All SD4: ED19, 24-27 Prentiss: SD1-2: All	18,541	+2.03%
4	Alcorn: SD5: All Tippah: All	17,762	+2.25%
5	Marshall: SD1: Less ED20 SD2: All Benton: SD1-4: All	18,209	+ .4%
6	DeSoto: ED1: ED2, 4-7 Marshall: SD3-4: All Tate: SD4: ED21 SD5: All	18,231	+ .33%
7	Lafayette: SD3: ED5-11 SD4: ED15-17 Fancier: SD1: ED 2 SD3: ED 24-25, 27 SD4: All SD5: ED10-14, 19-20	18,709	+2.96%
8	Lafayette: Oxford: All SD1: ED6-7 SD2: ED 3 SD5: ED21-22	17,722	-2.42%
9	Benton: SD5: All Lafayette: SD2: ED2 Marshall: SD1: ED20 SD5: All Union: SD1-2: All SD3: Less ED13, 15-16	18,430	+3.42%
10	Lee: SD1-2: All Prentiss: Remainder Union: Remainder	18,417	+1.35%

District Number	Description County and/or Part	Total Population	Norm Deviation
11	Itawamba: All Tishomingo: SD5: ED22	17,895	-1.52%
12	Lee: SD3: ED10, 12, 26-29 SD4: ED30-32, 36-38 SD5: Less ED40-41	18,279	+ .99%
13	Lee: Tupelo: ED11, 12-25, 31-35	17,914	-1.2%
14	Lafayette: SD1: ED5 Pontotoc: All	17,942	-1.26%
15	Yalobusha: All Calhoun: SD2-3: All	17,789	-2.10%
16	Grenada: All: Less SD5	18,161	- .06%
17	Calhoun: SD4-5: All Webster: SD1-4: All SD5: ED3	18,101	- .67%
18	Chickasaw: All Clay: SD5: ED14 Webster: SD5: ED1-2	18,398	+1.75%
19	Lee: SD5: ED40-41 Monroe: SD1: All SD5: Less ED17-18	17,910	-1.44%
20	Monroe: SD2-4: All SD5: ED17-18	18,090	- .45%
21	Clay: All: Less SD5: ED14	17,942	-1.26%
22	Lowndes: SD1: All SD2: ED14, 17-19, 27-31 SD3: ED30-37	18,312	+ .77%
23	Lowndes: Columbus: SD2: ED8-13, 15-16, 20-25, 32	18,111	- .33%
24	Lowndes: SD3: Remainder SD4-5: All		
	Oktibbeha: SD2: All SD5: ED25-26	17,974	-1.09%
25	Oktibbeha: SD1: Starkville SD1: ED13, 16 SD3: ED17-19	17,812	-1.38%



District Number	Description County and/or Part	Total Population	Norm Dev. %
26	Attala: SD2: ED1-2 Choctaw: All Oktibbeha: Remainder Winston: SD1: ED2,6 SD4: ED9	17,917	-1.40%
27	Carroll: SD1: All SD4: ED4-5,7 SD5: All Montgomery: All	18,093	- .42%
<u>Delta Region</u>			
28	DeSoto: SD1: ED1A-C,3 SD2: All SD3: ED17	18,538	+2.02%
29	DeSoto: SD3: Less ED17 SD4-5: All Tunica: SD1-2: All	17,978	-1.06%
30	Panola: SD1: ED1,3-4 SD2: ED7 Tate: SD1-3 SD4: Less ED21	18,230	+ .32%
31	Coahoma: SD1 Panola: SD1: ED5 SD2: ED6, 8-9 SD3: ED31 SD5: ED15-18 Quitman: SD1 Tunica: SD3-5	18,332	+ .88%
32	Coahoma: SD3: ED5-6 Panola: SD3: ED26,28-30 Quitman: SD2-5 Tallahatchie: SD1	17,870	-1.66%
33	Coahoma: SD2: All SD3: ED7-8 SD4: C'dale: ED22-24 SD4: ED39-46 SD5	18,434	+1.45%
34	Coahoma: SD4: C'dale: ED16-21,25-38	18,286	+ .63%
35	Bolivar: SD1,3: All SD2: ED18-20,24 SD4: ED34-35,52-53	18,390	+1.20%

District Number	Description County and/or Part	Total Population	Norm Dev. %
36	Bolivar: Cleveland (SD4) SD4: ED 33, 54-57	18,293	+ .17%
37	Sunflower: SD2: ED25,28 SD3: ED40 SD4: Less ED22 SD5: All	18,131	- .22%
38	Tallahatchie: All Less SD1	18,142	- .10%
39	Carroll: SD2: All Grenada: SD5: All Leflore: SD1-2: All SD3: Greenwood: ED11 (N.Part) ED12-16 SD3: ED35-37,38I SD4: ED42,44U	17,907	-1.46%
40	Leflore: Greenwood: Remainder SD3: ED38K, 39	18,038	- .73%
41	Carroll: SD3: All SD4: ED6 Holmes: SD1: ED 16-17 SD5: All Leflore: SD3: ED36J SD4: ED40-41,43,44V SD5: All	17,920	-1.38%
42	Sunflower: Remainder: Less SD4: ED22	18,143	- .16%
43	Bolivar: Remainder Sunflower: SD4: ED22 Washington: SD3: ED51,53-55 SD4: ED6-7	17,676	-2.73%
44	Washington: SD3: ED41-42,48-19,52, 56-62,9900 SD4: ED1-4,8-11	17,954	-1.20%
45	Washington: SD3: Greenville: ED12-19,21,39-40, 43-47	18,321	+ .82%
46	Washington: SD3: Greenville: ED20,27-39 SD3: ED50	18,025	- .81%
47	Issaquena: SD5: All Sharkey: SD3: All SD4: ED4-6 SD5: ED2-3		

## Delta Region (cont'd)

District Number	Description County and/or Part	Total Population	Per Deviation
47	Washington: SD1-2: All SD4: ED5 SD5: Less ED70	18,101	- .39%
48	Holmes: SD4: All Humphreys: All Sharkey: SD4: ED7 SD5: ED1 Washington: SD5: ED70	17,693	-2.03%
49	Holmes: Remainder Yazoo: SD4: ED2-4	17,868	-1.07%
50	Yazoo: SD1: ED27 SD3: All SD4: ED1, 5	18,300	- .71%
51	Issaquena: SD1-4: All Sharkey: SD1-2: All Warren: SD1: All SD2: ED13-14 Yazoo: SD1: ED24,26 SD5: All	18,090	- .45%

## East Central Region

52	Kemper: SD1: All SD5: ED6,8 Noxubee: All	18,096	- .41%
53	Neshoba: SD5: All Winston: SD1-5 Louisville: SD1: ED 7 SD2: ED 17-19 SD3: ED 3 SD4: ED 10-11 SD5: ED 13-15	18,184	+ .07%
54	Attala: SD1,3,5: All SD2: ED3 SD4: Less ED10	18,115	- .31%
55	Attala: SD4: ED10 Leake: All Madison: SD5: ED 1	18,370	+1.09%
56	Neshoba: Less SD5	18,674	+2.77%
57	Kemper: SD2-4 SD5: ED 7 Lauderdale: SD1: ED 23B, 32-37 SD2: ED 11-13,19 SD3: ED 46-49	18,219	+ .26%

## East Central Region (cont'd)

District Number	Description County and/or Part	Total Population	Per Deviation
58	Lauderdale: Meridian: SD1: ED20-21,23A,24-30 SD2: ED1, 2(N) SD3: ED39-41	17,887	-1.51%
59	Lauderdale: Meridian: SD1: ED22,31 SD2: ED2(S),3-10 SD3: ED43-45 SD4: ED58(N),59,60(N),61 SD5: ED70A(N),71(N), 73-79	18,470	+1.64%
60	Lauderdale: Meridian: SD3: ED38,42 SD4: ED52-57,58(S),60(S), 62-63 SD5: ED70A(E),70B,71(S),72 Remainder: SD2: ED14-18 SD3: ED50-51 SD4: ED64-67,69 SD5: ED80-84	18,321	+ .82%
61	Newton: Less SD5: ED22	18,175	+ .02%
62	Scott: SD1: Less ED19 SD2: Less ED11 SD3: ED26-28 SD4-5	18,102	- .38%
63	Madison: SD1: Canton: ED6-7, 11-12,14-16 SD1: ED18 SD3: Less ED29 SD4: All	17,889	-1.55%
64	Rankin: SD2: ED3-6,7B,8-9,11 ED14(E) ED15-17,19-22AB	17,882	-1.57%
65	Rankin: SD1 SD2: ED7A,10,12-13,14(W) ED18,23-25	17,715	-2.51%
66	Simpson: Less SD2: ED12-13	18,278	+ .59%
67	Rankin: SD4-5 Scott: SD1: ED19 SD2: ED11 SD3: ED 29-30 Smith: SD1, 4-5 SD2: ED 18	17,776	-2.12%



## East Central Region (cont'd)

District Number	Description County and/or Part	Total Population	Norm Deviation
68	Newton: SD5: ED 22 Jasper: All Jones: SD3: ED 3	18,013	- .87%
69	Clarke: All Lauderdale: SD1: ED 62 Wayne: SD3: All SD4: ED3	18,060	- .61%

## Southwest Region

70	Madison SD1: Canton: ED B-10,13 SD1: ED 17,19-20 SD2 SD3: ED 29 SD5: ED 2-3 Yazoo: Remainder	18,178	.04%
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District Number	Hinds County Description by CT EDs and Blocks (B)	Total Population	Norm Deviation
71	Jackson Part: 1 2: ED4-5 3 4: P-ED9: North of Northside Dr. ED10: County Part: 101: Less ED75BL,75L 102: ED78	18,117	- .30%
72	Jackson Part: 2: ED4L,6L 4: Remainder 12: ED37: B120 13-15 16: ED50L ED166: Less B111-112 ED167: Less B113-114,121-122 29: ED45 ED163: North of High St. & Ext. ED164A: B101-108 County Part: 101: ED75BL,75L	17,687	-2.67%
73	Jackson Part: 5 6: ED19: North of Collier ED21: North of Ave. D 9: ED26: B101-109 County Part: 102: Less ED78 103: ED87: B101-105 *ED88: East of Magnolia Rd	18,229	+ .32%

District Number	Hinds County Description by CT EDs and Blocks (B)	Total Population	Norm Deviation
74	Jackson (all): 6: Remainder: 8: ED23 ED24: West of Airport Boundary 9: Remainder 10: ED28 11: ED30L,34 ED33: Less B206-207 12: Remainder	18,207	+ .20%
75	Jackson (all): 10: Remainder 11: Remainder 16: ED50L,51 ED52: Less B204-205,210-212 17: 18: ED56: B101-105 19: Less ED66: B312-317 20: Less ED70: B204-205,207	17,884	-1.58%
76	Jackson Part: 16: Remainder 18: Remainder 19: Remainder 20: Remainder 25: ED68,108-109 ED111: B116-118,201-203 26: ED105,171 ED107: Less B206 27-28 29: Remainder 30: ED103-104,170A ED170B: B301-307, Part B308 31: ED172: B119-122,218-225 County Part: 111: * ED187: B901: North of Hardy Creek B902-908	17,908	-1.45%
77	Jackson (all): 21: ED71 ED72: B113-116 ED112-113 ED115: B301-302 24: ED124-126 ED127: B215 25: ED110 ED111: Remainder ED106 ED107: B206 31: Remainder 32: ED130: Less B217-222 ED131: Less B216 34: ED134AB: B101-102,122-126 ED173A ED174: B113-114	17,774	-2.13%

District Number	Hinds County Description by CT EDs and Blocks (B)	Total Population	Norm Population
78	Jackson Part: 7: 8: Remainder 21: Remainder 22-23 24: Remainder 32: Remainder 33: ED125 34: ED134; B201-205 County Part: 103: ED87: Remainder ED143 109: ED155 ED156: Less B211-212 ED158: B903-904	17,742	-2.36%
79	Jackson (All): 30: Remainder 33: Remainder 34: Remainder 35-36 37: ED184: B101-103,214 38: ED182: B101-103	17,877	-1.62%
80	Jackson Part: 37: Remainder 38: Remainder County Part: 107: ED194,199L 111: *Remainder 112-113	17,723	-2.47%
81	County (all): 107: Remainder 108 109: Remainder 110	17,967	-1.12%
82	County (All): 103: *Remainder 104-106	17,858	-1.72%

\* See explanation last page

## Northwest Region (cont'd)

District Number	Description County and/or Part	Total Population	Norm Population
83	Warren: Vicksburg: SD2: Remainder SD3: All SD4: Less ED35	18,249	+ .42%
84	Claiborne: SD2-4: All SD5: ED12 Warren: SD4: ED35 SD5: All	18,483	+1.71%
85	Copiah: SD1: ED15-19,21-23 SD4: All SD5: Less ED1, 7	17,665	-2.79%
86	Copiah: Remainder Lawrence: SD1: ED6-8 SD2: All Lincoln: SD1: ED18 SD2 SD5	18,177	+ .03%
87	Adams: SD4: ED14 SD5: ED17-18,19B Claiborne: SD1 SD5: ED13 Jefferson: All	18,513	+1.88%
88	Adams: Natchez: SD1: ED26 SD4: ED1-13 SD4: ED15-16 SD5: ED19A,20	18,370	+1.09%
89	Adams: SD1: Natchez: ED27-38 SD1: ED39-41 Wilkinson: SD1: Less ED11 SD2,4	18,337	+ .91%
90	Adams: SD2: ED24-25 SD3: ED22-23 SD5: ED21 Amite: SD2-3 Franklin: SD1-2 SD3: ED5 Wilkinson: SD1: ED11 SD3-5	18,314	+ .78%
91	Amite: SD1: ED4-5 Franklin: SD3: ED3-4 SD4-5 Lincoln: SD4: ED24 Pike: SD2: ED22-24,26-27 SD5: ED31,33	18,481	+1.70%



## Southern Region (cont'd)

District Number	Description County and/or Part	Total Population	Norm Deviation
92	Lincoln: SD1: D'haven: ED7-17 SD1: ED19-21 SD3 SD4: ED22-23,25	18,676	+2.78%
93	Pike: SD2: ED18-20 SD4: All	18,541	+2.63%
94	Lawrence: SD1: ED9 SD3 Pike: SD1 SD2: ED21,25,28 SD3 SD5: ED32 Walthall: SD1: ED11 SD2: Less ED8-9 SD4-5	18,229	+ .32%
95	Marion: SD1: ED1-4 SD2: ED8-10 SD3-4 Walthall: SD1: ED12 SD2: ED8-9 SD3	17,883	-1.59%
<u>Coast Region</u>			
96	Jones: SD3: ED6 SD4: ED56-57,59 Wayne: SD1: Less ED12 SD2 SD4: ED4-5 SD5	17,961	-1.16%
97	Jones: SD1: ED9,15,17-19, 23-24,29-33AB,38 SD3: ED1-2,4-5,7-8	17,873	-1.64%
98	Jones: SD1: ED10-14,16,20-22, 25-28,34-35,39-40 SD2: Less ED46-48	17,790	-2.10%
99	Covington: SD1-2 Jones: SD1: ED36-37AB,41 SD2: ED47-48 SD4: ED53-55,58 SD5	18,261	+ .43%
100	Covington: SD3-5 Jones: SD2: ED46 Simpson: SD2: ED12-13 Smith: SD2: ED17-19 SD3	18,112	- .33%

## Southern Region (cont'd)

District Number	Description County and/or Part	Total Population	Norm Deviation
1 101	Jeff Davis: All Lawrence: Remainder Marion: SD2: ED9,11	18,253	+ .45%
2 102	Forrest: SD2: ED8 Lamar: SD1: ED11 SD3-5: All Marion: Remainder	18,334	+ .89%
3 103	Forrest: Hattiesburg: SD1: ED9-15AB(N),16-20,24 SD2: ED7B	18,542	+2.04%
4 104	Forrest: Hattiesburg: SD1: ED15B(S),21-23,25-27 SD3: ED3C-36AB(W),37-38 SD1: ED28(S)	18,291	+ .66%
5 105	Forrest: SD1: ED28(N) SD2: Less ED7B,8 SD3: Hattiesburg; ED29,36B(E) SD3: ED39-44,45 SD4	18,571	+2.20%
6 106	Green: All Perry: All Wayne: SD1: ED12	17,910	-1.44%
7 107	George: All Jackson: SD1: ED2 Stone: SD1: ED9 SD3: ED6 SD4: ED3-5 SD5: ED1-2	18,230	+ .32%
8 108	Forrest: SD5: All Lamar: SD1: ED8-10 SD2: All Stone: SD1: ED10 SD2: All SD3: ED7-8 Pearl River: SD1,2: All SD3: ED5 SD5: ED15	18,587	+2.29%
9 109	Pearl River: SD3: ED3-4 SD4: Less ED35 SD5: Less ED14-15	18,485	+1.73%
0 110	Pearl River: SD4: ED35 SD5: ED14 Hancock: All Less SD3: ED2	18,421	+1.37%
1 111	Hancock: SD3: ED2 Harrison: CT25: ED62 CT27: Less ED64,90 CT29-31,35: All	18,574	+2.22%

District Number	Region (cont'd) Description County and/or Part	Total Population	Norm Deviation
12	Harrison: CT15: ED38AB CT16: ED39, 124 CT18: Less ED100-101 CT24: Less ED40 CT32: Less ED95 CT33: ED37, 101, 107A CT34: All	18,699	+2.20%
13	Harrison: CT22-23, 26, 28: All CT24: ED40 CT25: Less ED62 CT27: ED64, 90	18,685	+2.53%
14	Harrison: CT14, 99, 19-21: All CT14: ED54, 118-119 CT16: Less ED39, 124 CT17: ED30, 114 CT18: ED100-101	18,566	+2.17%
15	Harrison: SD4: ED61B SD5: ED36B CT12-13: All CT14: ED32, 116-117 CT15: Less ED38AB CT17: ED30, 114	18,159	- .07%
16	Harrison: CT8: Less ED148-149 CT9-11: All	18,709	+2.95%
17	Harrison: CT1: Less ED130, 169-170 CT2, 5-6: All CT3: Less ED134, 168 CT4: Less ED140 CT7: ED146	18,378	+1.14%
18	Harrison: CT1: ED130, 169-170 CT3: ED134, 168 CT4: ED140 CT7: Less ED146 CT8: ED148-149 CT33: EDJ3, 162-165, P167A, 167B		
	Jackson: CT9501 CT9502: ED13F	18,642	+2.59%
19	Jackson: CT9502: Less ED13F CT9503: All SD3: Pascagoula: ED45-55, 65, 9900 SD4: ED8, 17-19 SD4: All	18,635	+2.55%
20	Jackson: SD1: ED1, 3-4 SD2: ED31AB, 46-47 SD2: Moss Point: ED32-34, 36-37, 28B, 29 SD3: ED73	18,432	+1.43%

\* Attention is called to "block" 308 in CT30, ED170B. The entire series of blocks bearing the number 308 appears to be right-of-way property of the highway system and is unpopulated. Except for the eastmost triangular portion between the south lane of I-20 and the west lane of I-55, the entire block series of "block 308" was apportioned to House District 79 and Senate District 34.

\* ED88, northmost part of CT103, runs from H'way 49 (northwest of the City of Jackson) to northwest of the City of Clinton. The ED has a total population of 228 (1970 Census). Magnolia Road runs generally north-south through ED88 near the east-west center. The 228 population was arbitrarily apportioned as follows: 200 to House District 78 (east of Magnolia Rd) and 28 to House District 82 (west of Magnolia Rd.) The apportionment was based purely on probability and the land areas involved. If the entire population of ED88 were apportioned to one district or the other, neither district deviation from the norm population would be affected by as much as two tenths of one percent.

\* "Block" 901, ED187, CT111 is a narrow stretch of right-of-way land southeast of the City of Jackson between I-55 and H'way 51 from McDowell Road south to Elton Road (about 3 miles long). One short section of the "block" runs between Kingswood Avenue and H'way 51 just south of McDowell Road. Because it is believed that the entire population of 28 is in the McDowell-Kingswood area, it was apportioned to House District 76 and Senate District 33 (common boundary). Had the entire population of block 901 been apportioned to adjoining House Districts 79 or 80 and thus to Senate District 34, no district norm deviation would be changed by as much as .03%.



*Coast Region (cont'd)*

<i>Dis- trict</i>	<i>Num- ber</i>	<i>Description County and/or Part</i>	<i>Total Popu- lation</i>	<i>Norm Deviation</i>
	121	Jackson: SD2: Pascagoula: ED45 SD3: Pascagoula: ED48-53 SD2: Moss Point: ED35AB, 38A, 40-44	18,651	+2.64%
	122	Jackson: SD3: Pascagoula: ED56-64, 66-72	18,305	+ .74%

\* Attention is called to "block" 308, ED 170B, CT30. The entire series of blocks bearing the number 308 appear to be right-of-way property of the highway system and is uninhabited. Except for the eastmost triangular portion between the south lane of I-20 and the west lane of I-55, the entire series of "blocks 308" were apportioned to House District 79 and Senate District 34.

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[Map Omitted]